



California Regulatory Notice Register

REGISTER 2009, NO. 40-Z

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OCTOBER 2, 2009

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on March 30, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 17, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on April 27, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 17, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on May 20, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 17, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on May 26, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 17, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was ef-

fective on June 15, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 17, 2009.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before November 16, 2009.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The amendments of Section 3434(b) established additional portions of Alameda, Contra Costa, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma and Yolo counties as regulated areas. There is no existing, comparable federal regulation or statute regulating the intrastate movement.

**COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS**

The Department of Food and Agriculture has determined that Section 3434 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3434. No reimbursement is re-

quired for Section 3434 under Section 17561 of the Government Code because all of the affected county agricultural commissioners requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to \$0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current requirements of Section 3060.2, Standards of Cleanliness, California Code of Regulations (CCR), and cannot be sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

ASSESSMENT

The Department has made an assessment that the proposed adoption of the regulations would not (1) create

or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3434 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3406(b) of the regulations in Title 3 of the California Code of Regulations pertaining to the Mediterranean Fruit Fly Interior Quarantine as an emergency action that was effective on June 1, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 30, 2009.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department contact no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 180 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before November 16, 2009.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code, Section 5322).

This amendment established a new quarantine area for Mediterranean fruit fly in the Mira Mesa area of San Diego County of approximately 106 square miles. The effect of the amendment was to implement the authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and from the 106 square mile area under quarantine in San Diego County. This action is necessary to prevent artificial spread of the fly to noninfested areas in order to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the San Diego County Agricultural Commissioner requested that this area become the area under quarantine; therefore, there are no mandated costs associated with the addition of this area to the regulation.

The Department also has determined that the regulation will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, sta-

tewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. A representative person or business could incur costs of approximately \$90 per year in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department amended Section 3406(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3406(b) to implement, interpret and make specific Sections 5301, 5302 and 5322, Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be

directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet web-site (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND RULE 1890. POSSESSION OF CONTRABAND

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1890, Possession of Contraband. The proposed amendment states that no person other than a veterinarian licensed by the Board shall have in his possession at a facility under the juris-

diction of the Board any substance or medication that has been prepared or packaged for injection by a hypodermic syringe or hypodermic needle. The proposed amendment to Rule 1890 also adds a new subsection 1890(b), which states that no person other than a veterinarian licensed by the Board shall have in his possession at a facility under the jurisdiction of the Board any medicine, medication, or other substance recognized as a medication, which has not been prescribed under Rule 1840, Veterinary Practices and Treatments Restricted, and labeled in accordance with Rule 1864, Labeling of Medications.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, November 17, 2009**, or as soon after that as business before the Board will permit, at **Golden Gate Fields Race Track, 1100 Eastshore Highway, Berkeley, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on November 16, 2009**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: HaroldC@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: sections 19420, 19440 and 19580, Business and Professions Code. Reference cited: sections 19460, 19580 and 19581, Business and Professions Code.

Business and Professions Code sections 19420, 19440 and 19580 authorize the Board to adopt the proposed regulation, which would implement, interpret, or

make specific sections 19460, 19580 and 19581 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 states that jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19460 states that all licenses granted under this chapter are subject to all rules, regulations, and conditions from time to time prescribed by the Board. Business and Professions Code section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state. Those policies, guidelines, and penalties shall include, at a minimum, the provisions set forth in this article. It is the intent of the Legislature that the Board, in its testing efforts to determine illegal or excessive use of substances, recognize the grater importance of conducting complete and thorough testing of a lesser number of samples in preference to conducting less thorough testing on a greater number of samples. Business and Professions Code section 19581 states no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. The Board may require that the official veterinarian approve, in writing, the administration of those substances in accordance with the regulations of the Board. Any medication or equipment used to dispense medication that is located within the inclosure is subject to search and inspection at the request of any Board official.

The proposed amendment to Rule 1890 amends subsection 1890(a) to provide that no person other than a veterinarian licensed by the Board may have in his possession at a facility under the jurisdiction of the Board any substance or medication that has been prepared or packaged for injection by a hypodermic syringe or hypodermic needle. The amendment makes it clear that no person other than a veterinarian licensed by the Board may have in his possession any substance or medication

that has been prepared of packaged for injection by a hypodermic needle or syringe. This provision ties in with the new subsection 1890(b), which states that no person at a facility under the jurisdiction of the Board may have in his possession any veterinary treatment, any medicine, medication, or other substance recognized as a medication, unless it has been prescribed and labeled in accordance with the provisions of the Board's rules and regulations. Subsection 1890(b) is meant to address those who bring into the inclosure various substances, medications and veterinary treatments from the farm or private training facilities. While such items — if used on the horse — may not result in a positive test sample, they will be considered contraband because the Board has an interest in insuring that only those substances prescribed by a Board licensed veterinarian and properly labeled, are brought into the inclosure. Subsection 1890(b) does not prevent owners and trainers from bringing medications into the inclosure. However, if trainers or owners wish to bring such items into the inclosure, they must work with their veterinarians to prescribe and properly label the substances.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1890 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1890 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1890 does not have an effect on small busi-

nesses because it does not apply to small businesses. Rule 1890 prohibits the possession of contraband substances, medications and devices, as described by the regulation, at a facility under the jurisdiction of the Board.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
Policy and Regulation Unit
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
E-mail: HaroldC@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst
Telephone: (916) 274-6049

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the above address, as of the date this notice is published in the Notice Register. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person, at the address, phone numbers, or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes clearly marked — shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB SITE ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is www.chrb.ca.gov.

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND RULE 1867. PROHIBITED VETERINARY PRACTICES

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1867, Prohibited Veterinary Practices. The proposed amendment adds analogs of erythropoietin and darbepoietin, and growth

hormone and analogs as substances or medications whose possession or use on the premises of a facility under the jurisdiction of the Board is a prohibited veterinary practice. The proposed amendment to Rule 1867 also adds a new subsection 1867(c), which states the presence of any prohibited substance or medication listed in Rule 1867 in any test sample obtained consistent with Rule 1858, Test Sample Required; Rule 1859, Taking, Testing and Reporting of Samples; and Rule 1859.25, Split Sample Testing, shall apply to the sample in the same manner as to a scheduled race.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, November 17, 2009**, or as soon after that as business before the Board will permit, at **Golden Gate Fields Race Track, 1100 Eastshore Highway, Berkeley, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on November 16, 2009**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: HaroldC@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: sections 19440, 19562 and 19580, Business and Professions Code. Reference cited: sections 19580 and 19581, Business and Professions Code.

Business and Professions Code sections 19440, 19562 and 19580 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19580 and 19581 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State. Business and Professions Code section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state. Those policies, guidelines, and penalties shall include, at a minimum, the provisions set forth in this article. It is the intent of the Legislature that the Board, in its testing efforts to determine illegal or excessive use of substances, recognize the grater importance of conducting complete and thorough testing of a lesser number of samples in preference to conducting less thorough testing on a greater number of samples. Business and Professions Code section 19581 states no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. The Board may require that the official veterinarian approve, in writing, the administration of those substances in accordance with the regulations of the Board. Any medication or equipment used to dispense medication that is located within the inclosure is subject to search and inspection at the request of any Board official.

The proposed amendment to Rule 1867 adds subsection 1867(a)(1) to include growth hormone to the list of drugs, substances or medications, the possession or use of which constitutes prohibited veterinary practices. Growth hormone stimulates growth and cell reproduction in humans and animals, and is thought to improve athletic performance. Growth hormone may be administered, contrary to the Board's regulations, to improve a horse's physical performance and healing of injuries. To date, a satisfactory analytical method of detection and confirmation of growth hormone in the race horse has not been developed.

A new subsection 1867(c) provides that the presence of any drug, substance or medication described in subsections (a)(1) through (a)(5) and subsection (b) of the regulation in any test sample obtained consistent with Rule 1858, Test Sample Required; Rule 1859, Taking,

Testing and Reporting of Samples; and Rule 1859.25, Split Sample Testing, shall apply to the sample in the same manner as to a scheduled race. This is similar to the provisions of Rule 1866, Veterinarian's List, which provides that when a horse is required to perform a workout or qualifying race to demonstrate its physical fitness, a blood and/or urine post race test sample shall be taken from the horse and the provisions of this article shall apply to such official workout in the same manner as to a scheduled race. Under the new subsection 1867(c) the Board may take action if any drug, substance or medication listed in Rule 1867 is found in an out-of-competition test sample. Subsection 1867(c) provides a means of penalizing a trainer for prohibited practices when the horse is not entered to race.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1867 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1867 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1867 does not have an effect on small businesses because it does not apply to small businesses. Rule 1867 defines prohibited veterinary practices and lists the drugs, substances and medications that constitute prohibited veterinary practices.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine

that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
Policy and Regulation Unit
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
E-mail: HaroldC@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst
Telephone: (916) 274-6049

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the above address, as of the date this notice is published in the Notice Register. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person, at the address, phone numbers, or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes clearly marked — shall be made available to the public for at least 15 days prior to

the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB SITE ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is www.chrb.ca.gov.

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND RULE 1866. VETERINARIAN'S LIST

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1866, Veterinarian's List. The proposed amendment adds veterinary treatment, injury, and lameness as reasons a horse may be placed on the Veterinarian's List and determined to be unfit to compete. The proposed amendment also adds a new subsection 1866(b), which states a horse placed on the Veterinarian's List as injured, unsound or lame may not workout for 72 hours after being placed on the list without permission of the official veterinarian. A new subsection 1866(b)(1) provides that the official veterinarian may require a horse placed on the Veterinarian's List to undergo a veterinary examination prior to resuming training at any facility under the jurisdiction of the Board. A new subsection 1866(e) defines "workout" for the purposes of the regulation.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, November 17, 2009**, or as soon after that as business before the Board will permit, at **Golden Gate Fields Race Track, 1100 Eastshore Highway, Berkeley, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on November 16, 2009**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: HaroldC@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: sections 19440 and 19562, Business and Professions Code. Reference cited: sections 19440 and 19562, Business and Professions Code.

Business and Professions Code sections 19440 and 19562 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19440 and 19562 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations and conditions, consistent with the

provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State.

Rule 1866 provides for the maintenance of a Veterinarian's List of horses determined to be unfit to compete in a race due to a variety of reasons having to do with the soundness of the horse. The regulation also states the conditions under which a horse may be removed from the Veterinarian's List. The Board proposes to amend subsection 1866(a) to add veterinary treatment, injury and lameness as reasons a horse may be placed on the Veterinarian's List. Horses are currently placed on the Veterinarian's List for veterinary procedures such as shock wave treatments and the administration of anabolic steroids. This brings the regulation in line with current practice. Horses may also be added to the list for physical problems that would affect their ability to compete in races. Adding injury and lameness to the list of reasons a horse may be placed on the list makes it clear that the physical conditions will result in a horse being placed on the Veterinarian's List. A new subsection 1866(b) states that a horse placed on the Veterinarian's List as injured, unsound or lame may not workout for 72 hours after being placed on the list without the permission of the official veterinarian. The 72-hour period will provide some uniformity with regards to how long a horse must remain on the Veterinarian's List before it may workout, and a reasonable period of rest and recuperation for the horse. The 72-hour period is intended to look after the best interests of the horse, and will ensure that a trainer does not attempt to work a horse too soon. Subsection 1866(b) does provide for exceptions to the 72-hour period if the official veterinarian determines the horse is fit to workout. A new subsection 1866(b)(1) states the official veterinarian may require any horse placed on the Veterinarian's List to undergo a veterinary examination prior to resuming training at a facility under the jurisdiction of the Board. This would require that the trainer and his veterinarian provide the official veterinarian with certification that the horse was examined, and was fit and safe to ride. There are instances where a trainer will work a horse multiple times to get his horse off of the Veterinarian's List, only to have the horse placed on the list again. Subsection 1866(b)(1) provides a process that requires the trainer whose horse has repeatedly been placed on the Veterinarian's List to demonstrate there is nothing significantly wrong with the animal. A new subsection 1866(e) provides a definition of "workout" for the purposes of the regulation. The term "workout" is widely understood in the industry, but it could be a jog, a hand walk or a breeze (to work a horse at an easy pace). Subsection 1866(e) states for the purposes of the regulation a workout is an exercise session at near or close to full speed, which means a horse must gallop

(the fastest gait at which a horse runs). At the same time, the definition of workout is not so restrictive that it prevents the official veterinarian from determining the length of the workout.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1866 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1866 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1866 does not have an effect on small businesses because it does not apply to small businesses. Rule 1866 provides for the maintenance of a Veterinarian's List of horses determined to be unfit to compete in a race due to a variety of reasons having to do with the soundness of the horse. The regulation also states the conditions under which a horse may be removed from the Veterinarian's List.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to

Harold Coburn, Regulation Analyst
California Horse Racing Board
Policy and Regulation Unit
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
E-mail: HaroldC@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst
Telephone: (916) 274-6049

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the above address, as of the date this notice is published in the Notice Register. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person, at the address, phone numbers, or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes clearly marked — shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**AVAILABILITY OF FINAL STATEMENT
OF REASONS**

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB SITE ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is www.chrb.ca.gov.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

**AMENDMENTS TO CALIFORNIA CODE
OF REGULATIONS, TITLE 5
REGARDING NONPUBLIC SCHOOLS**

[Notice published October 2, 2009]

NOTICE IS HEREBY GIVEN that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing at **10:00 a.m. on November 16, 2009**, at 1430 N Street, Room 1801, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Strain, Regulations Coordinator
LEGAL DIVISION
California Department of Education
1430 N Street, Room 5319
Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) to 916-319-0155 or by e-mail to regcomments@cde.ca.gov. Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on November 16, 2009**.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Authority: Sections 33031, 56100, 56366, 56366.1 and 56523, Education Code.

Reference: Sections 2620, 2903, 2905, 4980.02, 4989.14, 4996.9 and 17505.2, Business and Professions Code; 33000, 33126, 33300, 49001, 49422, 49423.5, 56026, 56026.3, 56034, 56320, 56361, 56366, 56366.1, 56366.2, 56366.10, 56520 and 56523, Education Code; Section 2, Article IX, Constitution of the State of California; 20 U.S.C. Section 1401; 34 C.F.R. Sections 300.18, 300.34 and 300.156.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Current statute addresses, in part, the requirements for nonpublic school and agency certification. These proposed regulations are necessary to clarify existing and establish new personnel and program requirements for the purpose of establishing eligibility to provide behavior intervention services under the nonpublic school and agency certification program.

These proposed regulations are supplemental to, and in the context of, federal and state laws and regulations relating to the provisions of special education and related services by private schools and agencies.

DISCLOSURES REGARDING THE PROPOSED REGULATION

The SBE has made the following initial determinations:

Mandate on local agencies or school districts: None

Cost or savings to state agencies: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations have minimal impact on non-public, non-sectarian schools which are considered local businesses.

CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the content of this regulation may be directed to:

Thomas Kubasak, Consultant
Special Education Division
California Department of Education
1430 N Street, Suite 2401
Sacramento, CA 95814
Telephone: 916-324-4536
E-mail: tkubasak@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at 916-319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulations and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr>.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Unruh Civil Rights Act, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Thomas Kubasak, Consultant, Special Education Division, 1430 N Street, Suite 2401, Sacramento, CA, 95814; telephone, 916-324-4536. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **November 19, 2009**,
at 10:00 a.m.
in the City Council Chambers of
Costa Mesa City Hall,
77 Fair Drive, Costa Mesa,
California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **November 19, 2009**,
following the Public
Meeting,
in the City Council Chambers of
Costa Mesa City Hall,
77 Fair Drive, Costa Mesa,
California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **November 19, 2009**,
following the Public Hearing,
in the City Council Chambers of
Costa Mesa City Hall,
77 Fair Drive, Costa Mesa,
California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of poli-

cies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Low-Voltage Electrical Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **November 19, 2009**.

1. **TITLE 8: LOW-VOLTAGE ELECTRICAL SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 5,
Group 1
Low-Voltage Electrical Safety Orders—Addendum
2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7,
Article 109
Section 5197
Occupational Exposures to Food Flavorings Containing Diacetyl

Descriptions of the proposed changes are as follows:

1. **TITLE 8: LOW-VOLTAGE
ELECTRICAL SAFETY
ORDERS**

Division 1, Chapter 4, Subchapter 5,
Group 1

**Low-Voltage Electrical Safety
Orders—Addendum**

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board), recently updated Title 8 Low-Voltage Electrical Safety Orders (LVESO)¹ for equivalency with updates to 29 CFR Part 1910, Subpart S. That rule-making action was pursuant to Labor Code Section 142.3, which mandates the Board to adopt standards at least as effective as federal standards addressing occupational safety and health issues. That rulemaking process followed the authority listed in Labor Code Section 142.3(a)(3), sometimes referred to as a “Horcher” rule-making; thus it was limited only to changes covered by the counterpart federal standard. However, during the course of that rulemaking, other items, outside the scope of the “Horcher” process, were noted to be ambiguous, obsolete, overlapping, conflicting, and/or unnecessary. The purpose of this rulemaking proposal is to address those items.

This proposed rulemaking action contains minor, nonsubstantive revisions which are not all discussed in this Informative Digest. However, all proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these non-substantive revisions, the following actions are proposed:

Section 2305.2. Application.

Subsection (b), Extent of Application, specifies effective dates for different parts of the LVESO. Subsequent to the adoption of the LVESO update, Board staff became aware that the effective date for Section 2395.6, Portable and Vehicle-Mounted Generators, was unclear. Accordingly, Section 2305.2(b) is being amended to clearly indicate that, consistent with federal standards, amendments to Section 2395.6 became effective on May 5, 2008, the same time the general update became effective. The effect of this amendment will be to simplify compliance and enforcement by clearly establishing the effective date for changes made for portable and vehicle-mounted generators.

Section 2340.12. Mechanical Execution of Work.

Subsection 2340.12 requires that electric equipment be installed in a neat and workmanlike manner. Subsec-

tion (a) provides, in relevant part, that unused openings in boxes, raceways, auxiliary gutters, cabinets, equipment cases, or housings shall be effectively closed to afford protection substantially equivalent to the wall of the equipment.

Similar requirements are found in Section 2473.1(b), which is proposed for deletion as being duplicative and overlapping with other sections of the Safety Orders, including Section 2340.12(a). One subject of the proposed deletion of subsection 2473.1(b), however, that is not covered elsewhere is the matter of unused openings in fittings. It is therefore proposed to add “fittings” to 2340.12(a) in order to maintain that requirement in the Electrical Safety Orders. The effect of these revisions will be to assure that unused openings in fittings are effectively closed to protect employees from hazardous electrical exposures.

Section 2340.16. Work Space About Electric Equipment.

Subsection (b), Work Space, prescribes the work space to be provided for examination, adjustment, servicing, or maintenance of energized equipment. Subsection (b)(2)(A) specifies that concrete, brick or tile walls shall be considered as grounded when determining width for clear workspace requirements. A stakeholder requested clarification to the effect that any concrete, brick or tile surface be considered as grounded when determining any clear work space requirement (i.e., depth, width, height). This would be equivalent to National Fire Protection Association (NFPA) 70E-2004, Table 400.15(A)(1), Condition #2, and 2005 National Electrical Code (NEC) Table 110.26(A)(1), Condition #2. Thus it is proposed to relocate “concrete, brick, or tile” from subsection (b)(2) to Table 2340.16, Condition #2, so that it will apply to all clearances, and not just to width. The effect of this proposed relocation will be to conform Section 2340.16 of the LVESO with industry standard NFPA 70E-2004 and the 2005 Edition of the NEC.

Section 2360.3. Ground-Fault Circuit Interrupter Protection for Personnel—General Industry.

Section 2360.3 prescribes when ground-fault circuit interrupter (GFCI) protection is required during maintenance, remodeling, or repair of buildings, structures, or equipment “or during similar *construction-like* activities.” [italicized for emphasis]. Existing state Section 2405.4, Ground-Fault Circuit Protection—Construction Site, which was outside the scope of the Horcher rulemaking, contains similar, but not identical, grounding requirements for construction sites. The ambiguity of the term “construction-like” in Section 2360.3 causes it to overlap with Section 2405.4, and because of different grounding requirements for general industry versus construction, it creates confusion as to

¹ Low-Voltage Electrical Safety Orders, effective May 5, 2008.

application. It is therefore proposed that the term “construction-like” be deleted from Section 2360.3(b). The effect of this change will be to clarify application of electrical standards for general industry and construction.

Section 2405.4. Ground-Fault Circuit Protection — Construction Site. Subsection (a) General.

An advisory opinion from Federal OSHA, Region 9, on the Low-Voltage Electrical Safety Orders update² noted that Section 2405.4(a) describes a construction site as “a place of employment where erection, demolition, *modification*, alteration or excavation is being performed on a building, structure or underground facility, other than mining (emphasis added).” Region 9 opines that inclusion of the term “modification” in this definition excludes GFCI protection from activities intended to be covered by general industry standards in 29 CFR 1910, Subpart S. Section 2405.4 is the state counterpart to federal 29 CFR 1926.404(b)(1) which contains ground fault protection requirements for construction. The ground fault protection requirements of 29 CFR 1926, Subpart K, do not require GFCI in all cases where they are required by 29 CFR 1910, Subpart 5, because of difficulties in implementing GFCI in construction settings. Thus Region 9 was concerned that the provisions of Section 2405.4 might be applied in certain instances of remodeling and modification of existing buildings, and that these provisions would not be as effective as federal standards for general industry.

Board staff therefore proposes to delete the term “modification” from Section 2405.4(a). The effect of this deletion will be to clarify the distinction between grounding requirements for general industry (Section 2360.3) and construction (Section 2405.4).

Section 2405.4. Ground-Fault Circuit Protection — Construction Site. Subsection (b) Construction Sites, Exception.

This subsection requires that employees on construction sites be protected by either or both ground-fault circuit interrupters as specified in subsection 2405.4(c) or by an assured equipment grounding conductor program as specified in subsection 2405.4(d) or by both. An exception to this subsection exempts from these requirements individual cord sets, supplied from any receptacle on a 15- or 20- ampere branch circuit which is part of the permanent wiring of building or structure. This exception is not supported by 29 CFR 1926.404(b)(1) or the NEC, and is less protective than the counterpart federal standard. The exception is there-

fore proposed for deletion. The effect of this deletion will be to provide safety at least as effective as the counterpart federal standard and the NEC.

Section 2405.4. Ground-Fault Circuit Protection — Construction Site. Subsection (d) Assured Equipment Grounding Conductor Program.

This subsection requires the employer to establish and implement an assured equipment grounding conductor program on construction sites covering all 120-volt, AC, single-phase, cord sets, receptacles which are not a part of the permanent wiring of the building or structure and equipment connected by cord and plug, which are used by employees. Modifications are proposed to (1) delete “120-volt, AC, single-phase” and (2) amend “used by employees” to read “available for use or used by employees.” The effect of these modifications will be to provide protection equivalent to 29 CFR 1926.404(b)(1)(iii).

Section 2405.4. Ground-Fault Circuit Protection — Construction Site. Note for Subsection (d) Assured Equipment Grounding Conductor Program.

A note below subsection (d)(4) provides that double-insulated tools or other similar equipment need not be grounded, and cross references to Section 2395.45(d)(5). This cross-reference is incorrect, and it is proposed to be corrected to Section 2395.45, Exception 2, which requires double-insulated equipment to be distinctively marked. The effect of this amendment will be to clarify the use of double-insulated tools and utilization equipment.

Section 2473.1. Conductors Entering Boxes, Cabinets, or Fittings.

This section prescribes protection and securing for conductors entering cutout boxes, cabinets, or fittings. Subsection (b) provides that unused openings in cabinets, boxes, and fittings shall be effectively closed. Subsection (b) is duplicative of Sections 2340.12(a) and 2473.2(a); therefore it is proposed for deletion. The effect of this deletion will be to clarify requirements by eliminating overlapping and duplication.

Section 2534.8. Disconnecting Means.

This section prescribes disconnecting means for capacitors. As presently worded, it does not require the disconnecting means to open all ungrounded conductors simultaneously. This is contrary to NFPA 70-2005 (NEC) Section 460.8(C)(1), thus it is proposed to amend this section to be consistent with the NEC. It is also proposed to reformat the remainder of the section to be consistent with the verbiage of NEC 460.8(C). The effect of these modifications will be to conform capacitor disconnecting means to those prescribed by the 2005 edition of the NEC.

² Letter to OSHSB from US Dept. of Labor, OSHA Region 9, dated July 14, 2008.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local govern-

ments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local, and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**

Division 1, Chapter 4, Subchapter 7,
Article 109

Section 5197

**Occupational Exposures to Food
Flavorings Containing Diacetyl**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This proposed rulemaking was generated in response to concerns of employees, employers, members of the public and members of the California legislature with

respect to recently identified respiratory illnesses occupationally associated with food flavorings both in California and nationally.

Since July of 2004, the Division of Occupational Safety and Health (Division) and the California Department of Health Services (DHS)³ have identified four California flavor manufacturing industry employees who have been diagnosed with bronchiolitis obliterans. DHS and NIOSH collaborated on a cross-sectional study analyzing medical surveillance data collected from 2004 to 2008 on 584 workers from 19 California flavor-manufacturing companies; this group represents a majority of exposed workers and companies in the industry statewide. The study (not yet published) found that flavoring workers were at increased risk of severe airways obstruction as indicated by spirometry testing. To date, eight of the workers in the study have been identified by health care providers to have either bronchiolitis obliterans or fixed obstructive lung disease. Added to the 2004 index case, this brings the total number of flavorings-related lung disease cases identified in California to nine. Review of supplemental data submitted through the Flavoring Industry Safety and Health Emphasis Program (FISHEP) medical surveillance effort has identified other abnormal spirometric results, including some declines in spirometric function over time, the significance of which is still being reviewed.

Bronchiolitis obliterans is a rare and life-threatening form of obstructive lung disease characterized by significant permanent decreases in pulmonary function. It can progress to the need for a double lung transplant, or to death. Unlike asthma, which is also an obstructive lung disease, the pulmonary function of persons suffering from bronchiolitis obliterans does not improve with application of bronchodilator medications, and is therefore termed a *fixed* obstructive disease.

Exposures to food flavorings generally were not recognized as a possible cause of bronchiolitis obliterans prior to the year 2000. Generally, occupational instances of the disease had been associated with acute reactions following significant overexposures to a variety of industrial chemicals. But in late 2000, the National Institute of Occupational Safety and Health (NIOSH) recognized a new flavoring-related form of the disease that insidiously develops over time without the occurrence of a noticeable acute overexposure. NIOSH research at Midwestern microwave popcorn plants eventually associated the chemical *diacetyl* as a marker for the bronchiolitis obliterans. Diacetyl is used as a prima-

ry ingredient of many artificial butter flavors such as those used for microwave popcorn, and it is also used as a minor constituent of many other flavorings such as some fruit flavors. The risk to flavor exposed employees for development of abnormal spirometry results has been found by NIOSH to increase with increasing cumulative diacetyl exposure.

On August 18, 2006, the Division received a letter from 23 California legislators (including the chairs of the Assembly and Senate labor committees and health committees) requesting that the Division adopt first an emergency and then a permanent standard covering exposure to diacetyl. The letter called for a standard containing a "provisional" Permissible Exposure Limit (PEL) and medical surveillance and respiratory protection. On August 21, 2006, the California Occupational Safety and Health Standards Board (the Board) received a petition from the California Labor Federation and the California affiliate of the United Food and Commercial Workers International Union (UFCW) that mirrored the requests of the legislators.

In response to the petition and the letter from the legislators, a public advisory meeting was held on September 28, 2006. In January 2007, the Board granted the California Labor Federation and UFCW petition to the extent that it directed the representative advisory meeting convened the previous September to consider the rulemaking issues raised by the petition. To this end additional advisory meetings were held by the Division in February, March, May and July 2007. These meetings were well-attended by representatives of broad sectors of the public and important governmental institutions, including labor, diverse parts of the flavor and food manufacturing industries, public health and respiratory health experts, the DHS, NIOSH and Federal OSHA. The proposed standard is a culmination of the series of meetings in this public advisory process.

The proposed standard would apply to all flavoring and food manufacturing facilities that utilize diacetyl and food flavorings containing 1% or greater concentration of diacetyl. The proposed new rule requires covered employers to perform an exposure assessment, establish regulated areas, implement engineering and work practice controls, provide respiratory protection, provide medical surveillance including health questionnaires and pulmonary function tests, provide medical removal job protection for up to six months, provide specific hazard communication training and labeling, maintain records, make a one-time reporting to the Division, and prepare Material Safety Data Sheets for products containing more than 0.1% diacetyl.

There is no equivalent federal standard published or proposed by the Occupational Safety and Health Administration.

³ In 2007, the California Department of Health Services transferred the functions relevant to this discussion to the California Department of Public Health.

DOCUMENTS INCORPORATED BY REFERENCE

- California Department of Public Health. Medical Surveillance for Flavorings-Related Lung Disease Among Flavor Manufacturing Workers in California, August 2007.
- Hankinson, JL, Odencrantz, JR, Fedan, KB (1999) Spirometric reference values from a sample of the general U. S. population *Am J Respir Crit Care Med* 159,179-187.
- "ATS/ERS Task Force: Standardisation of Lung Function Testing," a five part series, *Eur Respir J* 2005; 26: 153-161, 319-338, 511-522, 720-735, 948-968.
- Sampling and Analytical Methods for Acetoin and Diacetyl, Methods ID 1012 and ID 1013, Federal OSHA Methods Development Team, OSHA Salt Lake Technical Center, Sandy, Utah, 2008.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The proposed standard will have a cost impact on flavoring manufacturing companies in California. Currently, there are fewer than 30 such flavor manufacturers employing in total about 750 employees. A small number, (estimated less than 10% per advisory committee discussions) of the approximately 4,700 California food manufacturers (EDD, 2006) are anticipated to utilize diacetyl containing flavorings at concentrations at or above 1% or at whose establishments employees develop fixed obstructive lung disease due to occupational exposures may be affected by the proposed standard.

Currently, there have been no diacetyl related fixed obstructive lung cases identified at California workplaces other than at flavoring manufacturers, and there is no data on how many, if any, food manufacturers utilize diacetyl flavorings at the trigger concentration.

Existing California Title 8 standards require exposure assessments, utilization of engineering and work practice controls for hazardous exposures, and provision of personal protective equipment. Based on FISHEP cost estimate data, the proposed standard is expected to add a small additional increase to those existing costs to provide the specified number of exposure assessments at \$300 annually, engineering control plan elements at \$2,500 in initial costs and respiratory protection at \$200 annually. Therefore an estimate of \$3,000 initially and \$500 annually per employee in added new costs for these requirements is anticipated.

The proposed rule may result in a small increase in training costs in order for employers to properly train their employees in accordance with the training requirements in the proposal. Employers are already required to conduct periodic training as required by Title 8 Section 3203 (Injury and Illness Prevention Programs), and training on hazardous substances as required by Title 8 Section 5194 (Hazard Communication). The proposed training details can easily be incorporated into employers' existing training programs with a minimum of cost.

The proposed rule's requirement for medical surveillance will add new costs, about \$200 per exposed employee per annum based upon the experience of flavoring manufacturers in the FISHEP program. The proposed rule's medical removal benefit will add small unspecified additional costs to businesses for up to six months only when an employee has either developed or is suspected of being at risk for developing fixed obstructive lung disease. This additional cost will vary, it could be a few cents an hour to make up the difference in pay between job classifications, or it could be as much as the full pay of an employee for whom no alternative work is available. The medical removal requirement will not lead to significant costs for employers. Thus far in the California flavor manufacturing industry, less than five percent of workers undergoing medical surveillance have met criteria to be considered for medical removal.

Overall, the total additional costs for flavor manufacturers are estimated to be \$3,200 initially and \$700 annually per employee which averages out to be less than \$65,000 per facility in initial costs and \$15,000 on an annual basis. For the fewer than 30 flavoring manufacturers in California, there would be no additional initial costs over the total estimated \$2 million already incurred, and annual costs would total less than \$500,000. This estimate is based upon informal communications between the Division and employers in the

FISHEP program. This estimate does not take into account cost savings from reduced workers compensation costs due to the reduced number of illnesses resulting from implementation of engineering controls, work practice controls and respiratory protection requirements. It is expected that similar initial and continuing costs would be experienced by the small percentage of food manufacturing companies that will be impacted by this proposed regulation.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety

and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than November 12, 2009. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on November 19, 2009, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE REPEAL OF THE 2007 AMENDMENTS TO CALIFORNIA'S EMISSION WARRANTY INFORMATION REPORTING (EWIR) AND RECALL REGULATIONS AND EMISSION TEST PROCEDURES AND READOPT THE PRIOR EWIR REGULATIONS AND EMISSION TEST PROCEDURES

The Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to repeal the 2007 amendments to California's Emission Warranty Information Reporting and Recall (EWIR) Regulations and emission test procedures (referred to collectively as the "2007 EWIR amendments") and to readopt the prior EWIR regulations and test procedures.

DATE: November 19, 2009

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a one-day meeting of the Board, which will commence at 9:00 am. on November 19, 2009. Please consult the agenda for the meeting, which will be available at least 10 days before November 19, 2009 to determine the order of agenda items.

If you require a special accommodation or need this document in an alternate format or language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Amendments to sections 1956.8, 1958, 1961, 1976, 1978, 2111, 2112, 2122, 2136, 2141, title 13, California Code of Regulations (CCR), and the following related test procedures which are incorporated by reference: "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted August 5, 1999, and as last amended May 2, 2008, "California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999, and as last amended October 17, 2007, "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999, and last amended October 17, 2007, and "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto Cycle Engines," adopted December 12, 2002, as last amended October 17, 2007, and repeal of sections 2166, 2166.1, 2167, 2168, 2169, 2170, 2171, 2172, 2172.1, 2172.2, 2172.3, 2172.4, 2172.5, 2172.6, 2172.7, 2172.8, 2172.9, 2173, and 2174. This will have the effect of readopting title 13, CCR, sections 2111-2149, as they existed prior to the 2007 EWIR amendments.

Background: In 1982, the Board adopted regulations establishing a recall program for in-use vehicles. In this program, staff would procure and test approximately ten similar, well-maintained, low-mileage vehicles (typically three years old, and thus within the five year "useful life" period which, at the time, was the period in which the vehicles were required to meet emission standards.) The tests were identical to tests used by manufacturers to certify the vehicles to ARB's emission standards. If the test vehicles on average exceeded emission standards, ARB ordered a recall for all vehicles produced in the tested group. Manufacturers implemented ARB's order by notifying owners to take

their cars to dealers for repair, where manufacturers paid the dealers to take the steps necessary to reduce the vehicles' emissions to below applicable emission standards. This often involved replacing defective parts with parts of improved durability. In the early years of the program, many vehicles failed to meet emission standards and were recalled, but over time manufacturers improved the durability of their emission control components, and the failure rate and number of recalls declined.

Nevertheless, staff found that in a significant number of cases two or three of the ten vehicles in the test group had defective emission control components. Because compliance with emission standards was determined by averaging the results of all ten vehicles tested, in most of these cases the test group did not exceed emission standards on average, and no recall or other corrective action could be ordered. Staff believed, however, that these 20 percent to 30 percent failure rates of important emission control components occurring at low mileage accumulations were unacceptable because they meant that the chance of additional failures was real and would result in high emissions in substantial portions of the in-use fleet. Existing resources limited testing to a small fraction of the several hundred vehicle models the ARB certifies each year. In addition, the useful life period over which the vehicle manufacturer was responsible for maintaining emission compliance was extended by regulation to 100,000 miles or more. This required either testing vehicle models several times over their useful lives, or testing older models and delay detecting problems that may have existed for years. During this period, vehicular on-board diagnostic systems (OBD) became common and began to provide valuable information on what specific emissions parts were failing during emissions warranty periods.

The circumstances led staff to propose a more efficient and comprehensive program to identify and recall vehicles with defective emission related parts and systems, which the Board adopted in 1988. This new program was called the Emission Warranty Information Reporting and Recall (EWIR) program (1988 EWIR regulations). Vehicle manufacturers were required to keep records of emission control parts that were returned under warranty claims, report if the number exceeded a certain threshold and then determine the actual failure rate (e.g., some returned parts replaced under warranty could be excluded because they may not actually be defective due mechanics having misdiagnosed the problem). When the validated failure rate of an emissions part exceeded 4 percent within the warranty period, ARB ordered a recall and manufacturers usually complied.

Over a hundred recalls resulted from this program. However, in a number of cases, the recalls were so ex-

tensive and costly that vehicle manufacturers balked at conducting them. Manufacturers claimed that the law required ARB to show that every subgroup of vehicles with the defective part exceeded emission standards, even though in some subgroups the rate of warranty claims reached 70 percent. Although ARB disagreed with the manufacturers' position, an administrative law judge ruled in the manufacturers' favor. Based on this ruling, another manufacturer with an extensive problem of defective catalysts was able to implement such a narrow remedy that, in ARB's opinion, many vehicles with defective catalysts were not repaired and the chances of more vehicles experiencing similar failures over their useful lives is great. Utilizing this ruling, other manufacturers resisted ARB's attempts to correct other instances of emission control component failures.

Based on this experience, ARB staff developed a revised emission warranty information reporting regulation. The revised program, adopted by the Board in 2007 (the 2007 EWIR amendments), was based on the requirement that in certifying a vehicle for sale in California, a manufacturer is required to demonstrate the durability of its emission control system design over a vehicle's useful life through a testing program, and, if a substantial number of the allegedly durable parts fail in use, the manufacturer has violated the certification test procedure and a recall can be ordered on the basis of the excessive parts failure alone. As a result, no emission testing by ARB was needed, and neither was a demonstration that the vehicles exceeded emissions standards on average. Simply put, under the 2007 EWIR amendments, if four percent of a particular emission control part fails to perform during the warranty period, the vehicle manufacturer must remedy the defect. Also, the burden of warranty reporting was reduced, and an alternative to recall involving extending the emission warranty was provided as well. These features reduced the cost of compliance for vehicle manufacturers, provided, of course, that the instances of emission control failure were relatively limited. From the staff's standpoint, this revised program provided a greater assurance that defective parts would be replaced, and in instances where the percentage of parts that fail in-use remained low (i.e. parts failure was not expected to occur on every vehicle before the end of the vehicle's life), the consumer was protected by the extended warranty and the manufacturer did not face the cost or stigma of recalling every vehicle.

Following the adoption of the 2007 EWIR amendments, the Automotive Service Councils of California and associated industry groups, and the Engine Manufacturers Association, filed petitions for writs of mandate challenging them. On December 16, 2008, a judge upheld most of the 2007 EWIR amendments, but ruled that the four percent corrective action threshold

did not constitute a “test procedure” as that term is used in the Health and Safety Code. As a result, ARB could not order a recall or other remedy under the 2007 EWIR amendments based the failure of emission control parts.

Proposed Amendments: Although the judge’s ruling invalidated only this one portion of the amended regulation, ARB staff has concluded that the remaining sections of the amended regulation are unenforceable because they depend on the four percent failure rate corrective action trigger to have any real effect. As a result, the staff is recommending the 2007 EWIR amendments be repealed, and that version of the EWIR regulation adopted by the Board 1988 be readopted. Although there are limits and weaknesses in the previous, 1988 EWIR regulation, it resulted in many recalls of defective parts and vehicles and increased durability of emissions components. Thus, it is a better option than no emission warranty information reporting or recall regulation.

COMPARABLE FEDERAL REGULATIONS

The proposed amendments to the 2007 EWIR regulation and readoption of the prior EWIR regulation have requirements that are similar to the federal defect reporting procedures. (See, generally 40 C.F.R. Part 85, in particular 40 C.F.R. sections 85.1901 and 85.1903.) Federal law requires a onetime report — the Emissions Defect Information Report (EDIR) — describing the defect, the vehicles it affects and its impact on emissions. However, the federal defect reporting requirement is wanting compared to ARB’s proposed emission warranty reporting program because under the federal rule manufacturers are permitted to determine their own process for reporting and lacks oversight for determining the true cause of a specific failure.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: “Staff Report: Initial Statement of Reasons for the Proposed Rulemaking — Public Hearing to Consider the Repeal of the 2007 Amendments to California’s Emission Warranty Information Reporting (EWIR) and Recall Regulations and Emission Test Procedures and Readopt the Prior EWIR Regulations and Emission Test Procedures.”

Copies of the ISOR and the full text of the proposed regulatory amendment language, in underline and strikeout format to allow for comparison with the exist-

ing regulations, may be accessed on the ARB’s website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322–2990 at least 45 days prior to the scheduled hearing on November 19, 2009.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB’s website listed below.

Inquiries concerning the substance of the proposed amendments may be directed to the agency contact persons, Mr. Tom Valencia, Manager, In–Use Compliance Section, at (626) 575–6741 or Ms. Vickie Stoutingburg–Alewine, Air Pollution Specialist, In–Use Compliance Section, at (626) 575–6802.

Further, the agency representative and designated back–up contact person to who nonsubstantive inquiries concerning the proposed administrative actions may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322–4011 or Ms. Amy Whiting, Regulations Coordinator (916) 322–6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposed amendments are based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB’s website for this rulemaking at <http://www.arb.ca.gov/regact/2009/ewirpsip09/ewirbsip09.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board’s Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Since the proposal is the repeal of the 2007 EWIR regulation amendments and readopt the prior regulations, the impacts are to reverse the original expected costs and benefits that would have resulted from the adoption of the 2007 EWIR regulation amendments.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs to the ARB. The staff had expected the need for two additional staff at a cost of \$200,000 a year to implement and enforce the 2007 EWIR regulation amendments starting in 2010.

Those two staff will no longer be needed if the amendments are repealed. In addition, no costs would be created to any other State agency, or in federal funding to the State as a result of the repeal. The repeal/read-option will not create costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to State or local agencies.

The businesses impacted by the proposed repeal would be manufacturers of California motor vehicles. There are presently 35 domestic and foreign corporations that manufacture California-certified passenger cars, light-duty trucks, and medium-duty gasoline and diesel fueled vehicles, 20 heavy-duty engine manufacturers, and over 60 motorcycle manufacturers. Only one motor vehicle manufacturing plant (NUMMI) is located in California. The originally proposed amendments would have resulted in reporting cost savings due to a reduced reporting requirement, however, the repeal would eliminate this benefit to the manufacturers. In addition, since manufacturers are fully expected and required to comply with emission standards and regulations, enforcement costs to manufacturers would have been negligible with the amendments, with the exception for those manufacturers that had high defective emission component rates and their resulting corrective action. While it was speculated the amendments would have resulted in more corrective actions in general, it was also estimated the industry wide cost would have been roughly equivalent. Repealing the 2007 EWIR regulation amendments is expected to result in fewer corrective actions; however, the same effect is expected industry wide, and there will be very little impact compared to what the costs are today.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the repeal of the 2007 EWIR regulation amendments will not affect small businesses. The 2007 amendments had assumed slight, absorbable or positive impacts, and the repeal is simply status quo. Additionally, as with the 2007 EWIR regulation amendments, their repeal should have no potential impact on the independent service and repair industry and aftermarket parts manufacturers since the amended regulations deal with mainly new vehicles and engines that are still within their certified useful life period.

In developing this amendment, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. In fact a savings could be realized by business.

The Executive Officer has made an initial determination, pursuant to Government Code section 11346.5(a)(8), that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would have minor or no impact on the creation and elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to the businesses are necessary for the health, safety, and welfare of the people of the State of California.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the hearing and may be submitted by postal mail or by electronic submittal before the hearing. To be considered by the Board, written comments not physically submitted at the meeting must be received **no later than 12:00 noon, Pacific Standard Time, November 18, 2009**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources
Board
1001 I Street, Sacramento, California
95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be re-

leased to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, 20 copies of any written submission. Also, ARB requests that written and e-mail statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff, in advance of the hearing, any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806; and Vehicle Code section 28114. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806; and Vehicle Code section 28114.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Board of Forestry and Fire Protection (Board) Title 14 of the California Code of Regulations (CCR)

[Published October 2, 2009]

NOTICE OF PROPOSED RULEMAKING

Coho Salmon Incidental Take Assistance Repeal, 2009

The Board of Forestry and Fire Protection (Board) proposes to repeal the following regulations of Title 14 of the California Code of Regulations (14 CCR) Division 1.5, Chapter 4, 5, and 6, Article 6, of the California Forest Practice Rules described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

Repeal:

- § 916.9.2 [936.9.2] Additional Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon
- § 923.9.2 [943.9.2] Additional Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon

PUBLIC HEARING

The Board will a public hearing on **Wednesday December 9, 2009, starting at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California.** At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 p.m., on Monday, November 16, 2009.** The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551 and 4554.5 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4513, 4551.5, 4561 and 21080.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board of Forestry and Fire Protection (Board) is proposing to repeal regulations that facilitate an expedited process for obtaining incidental take permits from the Department of Fish and Game for timber operations that may result in the take of coho salmon.

On September 17, 2009, the San Francisco Superior Court (Court), in *Environmental Protection Information Center and Sierra Club vs. California State Board of Forestry and Fire Protection and California Department of Forestry and Fire Protection*, Case NO: CGC-07-469244, struck down sections 916.9.2, 923.9.2, 936.9.2 and 943.9.2 of the California Forest Practice Rules. The Court found that these sections purported to determine minimization and full mitigation of impacts under CESA (Fish & G. Code, § 2081) which exceeded the Board's authority. The Board notices this action to repeal the subsections.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. To the extent that the expedited ITP certification process contained in the repealed rules provided cost saving to the regulated public, the proposed regulation eliminates any of those cost saving opportunities.

- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the Board web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Board of Forestry and Fire Protection Title 14 of the California Code of Regulations

[Notice Published October 2, 2009]

NOTICE OF PROPOSED RULEMAKING

Utility Clearing Exemption Extension, 2009

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) Division 1.5, Chapter 7 Fire Protection, and Article 4, described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend:

§ 1257(a)(3) Exempt Minimum Clearance Provisions—PRC4293

PUBLIC HEARING

The Board will hold a public hearing on Wednesday, December 9, 2009, starting at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m., on Monday, November 16, 2009. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244–2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506–14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653–0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Under the authority of PRC 4292 and 4293, the Board is amending Article 4, Chapter 7, to Title 14 California Code of Regulations. References include Sections 4111, 4292–4296, and 4125 to 4128 of the Public Resources Code. The statutes authorize the Board to make and enforce regulations necessary for the organization, maintenance, governance and direction of fire protective systems for prevention and suppression of forest fires. The statute also require any entity who maintains any electrical transmission or distribution infrastructure in wildlands to maintain around power lines and associated conduits, a fire break, which consists of clearing certain distances around the outer circumference of the pole, wire, or tower.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulation extends until January 1, 2012, an existing regulation for fire prevention standards for electrical utilities. The existing regulation includes an exemption to the utility vegetation clearing requirements in § 1257(a)(3). The exemption allows for healthy, mature trees (trunks and limbs), that are sufficiently rigid so they do not present a risk to public safety, to be closer to powerlines than the minimum clearing distance under existing regulations. These trees/limbs are commonly referred to as major woody stems, or MWS.

SPECIFIC PURPOSE OF THE REGULATION

Modify the expiration date in subsection (a)(3) to 14 CCR § 1257 to January 1, 2012, to allow for continuation of the existing clearing exemption. The exemption to the utility vegetation clearing requirements allows for mature trees (Major Woody stems, or MWS) to be closer to powerlines than the minimum clearing distance in State regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None

- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. The amendment extends an exemption to existing clearing standards, reducing the clearing requirement for MWS to a minimum of six inches. This reduction in the clearing requirements is estimated to have a significant positive financial effect for utilities, and potentially utility rate payers, due to the lesser amount of vegetation removal or installation of insulation around line for compliance with existing rules.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board

would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the Board web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are

sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

DIVISION OF JUVENILE JUSTICE

**Title 15, California Code of Regulations
Sections 4166, 4168, 4168.5, 4168.7, 4169, 4169.5,
4169.9**

**Sections 4170.5, 4171, 4172, 4173, 4174, 4174.5,
4174.6**

**Acceptance and Rejection Criteria for Youth with
Medical or Mental Health Conditions**

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) proposes to adopt sections 4165, 4165.5, 4166, 4167, 4168, 4168.5, 4168.7, 4169, 4169.5, 4169.9, 4170, 4170.5, 4171, 4171.5, 4172, 4173, 4174, 4174.5, 4174.6 to the Title 15, Division 4, of the California Code of Regulations (CCR) pertaining to acceptance and rejection criteria for youth with medical or mental health conditions, criminal and juvenile courts.

The DJJ has not scheduled a public hearing on this proposed action. However, the DJJ will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the DJJ. Comments may also be submitted by facsimile (FAX) at 916-262-2608 or by email to DJJ-PPPR@cdcr.ca.gov. The written comment period closes at 5:00 p.m. on 11-16-2009. The DJJ will consider only comments received at the DJJ offices by that time. Submit comments to, Policy, Procedures, Programs and Regulations Unit (PPP&R), 4241 Williamsborough Drive, Suite 117, Sacramento, CA 95823.

AUTHORITY

In November, 2004, The Superior Court of California in *Farrell v. Cate*, County of Alameda, Case No. RG 03079344, issued orders in a Consent Decree under which the DJJ agreed to develop and implement a comprehensive remedial plan that would improve the standard system of health care and accountability.

Section 1712 of the Welfare and Institutions Code (W&I) Code establishes the DJJ has the responsibility to make and enforce all rules appropriate to the proper accomplishment of the functions of DJJ.

REFERENCE

Section 1004 of the W&I Code establishes the DJJ shall have charge of the persons committed to or confined in DJJ facilities and shall provide for their care, supervision, education, training, employment, discipline and government.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking clarifies and makes specific Section 1004 of the W&I Code that states the DJJ shall have charge of the persons committed to or confined in DJJ facilities and shall provide for their care, supervision, education, training, employment, discipline and government.

The Consent Decree requires the Division of Juvenile Justice (DJJ) to develop formal criteria for accepting youths into the DJJ pursuant to Welfare and Institutions Code Section 736. It further prohibits DJJ from accepting more youths than can be materially benefited by the DJJ's rehabilitative and educational discipline, and it prohibits the Division from accepting youths for whom the DJJ does not have adequate facilities.

The proposed regulations establish a process for the Acceptance and Rejection Criteria for Youth with Medical or Mental Health Conditions. It is in response to the

Consent Decree and addresses youth with complex medical conditions, persistent and serious mental health care needs and/or developmental disabilities who could not materially benefit from a commitment to DJJ and who may not be able to materially benefit from the type of rehabilitative/treatment program outlined in the Safety and Welfare or other remedial plans and who could better be served in alternate programs. To further implement the policy, the DJJ submits these proposed regulations.

CONTACT PERSONS

Please direct any inquiries regarding this action to:

Phyllis Green
Policy, Procedures, Programs and Regulations
Unit
Division of Juvenile Justice
(916) 262-3178

Questions regarding the substance of the proposed regulation should be directed to:

Eleanor Silva
Intake and Court Services Unit
Division of Juvenile Justice
(916) 262-0853

In the event the contact persons are not available, inquiries may be directed to the following back up contact person:

Angelina Parker
Policy, Procedures, Programs and Regulations
Unit
Division of Juvenile Justice
(916) 262-1550

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts or a mandate which requires reimbursement pursuant to Government Code Sections 17500-17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

- Other non-discretionary costs or savings imposed on local agencies: None.
- Costs or savings in federal funding to the state: None
- Significant, statewide adverse economic impact, directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: None.

EFFECT ON HOUSING COSTS

The DJJ has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact on housing costs.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The DJJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The DJJ has determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESS

The DJJ has determined that the proposed regulations will not affect small business due to the fact the rules apply only to practitioners employed by the DJJ.

ASSESSMENTS REGARDING EFFECTS ON JOBS/BUSINESSES

The DJJ has determined that the proposed regulations will have no affect on the creation of new or the elimination of existing jobs or businesses, or the expansion of businesses within the State of California.

ALTERNATIVES CONSIDERED

The DJJ has determined that no reasonable alternative has been identified and brought to the attention of

the agency or would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The DJJ has made available the initial statement of reasons and the proposed text of the regulations. All documents pertaining to this regulatory action (rule-making file) will be available on the California Department of Corrections, Division of Juvenile Justice website www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons will be made available upon request from the agency contact person or posted on the above DJJ website.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the DJJ may adopt the proposed regulations as set forth above without further notice.

If the regulation text is modified by the DJJ and the changes are sufficiently related to the originally proposed action, the DJJ will make the modified text available (with the changes clearly indicated) to the public for at least 15 days prior to adopting the amended regulations. The DJJ will accept written comments pertaining to only the modified text during the 15-day period prior to adoption of the revised text. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice.

TITLE 19. CALIFORNIA EMERGENCY MANAGEMENT AGENCY

NOTICE OF INTENTION TO ADOPT OR AMEND A CONFLICT OF INTEREST CODE

NOTICE IS HEREBY GIVEN that the California Emergency Management Agency intends to amend a conflict of interest code pursuant to Government Code Section 87300 and 87306. Pursuant to Government Code Section 87302, the code will designate employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participat-

ing in the making of governmental decisions affecting those interests.

A written comment period has been established commencing on October 5, 2009 and terminating on December 4, 2009. Any interested person may present written comments concerning the proposed code no later than **December 4, 2009** to Linda MacRae, Staff Counsel, California Emergency Management Agency, Legal Department, 3650 Schriever Avenue, Mather, CA 95655. No public hearing on this matter will be held unless any interested person or his or her representative requests one, no later than 15 days prior to the close of the written comment period.

The California Emergency Management Agency has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

This amendment will do the following:

- Repeal the existing joint conflict of interest code for the former Governor's Office of Emergency Services and Governor's Office of Homeland Security. Those agencies have been replaced with the new California Emergency Management Agency as of January 1, 2009.
- Adopt a new conflict of interest code that reflects current job classifications of designated employees for the new California Emergency Management Agency.

Copies of the proposed code and all of the information upon which it is based may be obtained from the Governor's Office of Emergency Services, Legal Department, 3650 Schriever Avenue, Mather, CA 95655. Any inquiries concerning the proposed code should be directed to Linda MacRae, Staff Counsel (916) 845-8522 [Linda.Macrae@calema.ca.gov].

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED CHANGES TO BUILDING STANDARDS OF THE OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING THE CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2

HEALTH FACILITIES CONSTRUCTION

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Office of

Statewide Health Planning and Development (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The OSHPD is proposing building standards related to the construction of hospitals, skilled nursing facilities and correctional treatment centers.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009, until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to

implement, interpret, and make specific the provisions of Health and Safety Code Sections 1226, 1275, 129790 & 129850. The OSHPD is proposing this regulatory action based on Health and Safety Sections 1226, 1275, 129790 & 129850 and Government Code Section 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 1226 authorizes the Office to prescribe, in consultation with the Community Clinics Advisory Committee, minimum building standards for the physical plant of clinics, for adoption in the California Building Standards Code.

Health and Safety Code Section 1275 authorizes the Office to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code Section 18949.3 mandates that the responsibilities of the Office to adopt building standards, including but not limited to, the responsibilities specified under the Alfred E. Alquist Hospital Facilities Seismic Safety Act (commencing with Section 129765) be transferred to the California Building Standards Commission.

Health and Safety Code Section 129790 authorizes the Office to propose building standards for correctional treatment centers in cooperation with the Department of Corrections, Board of Corrections and Department of Youth Authority.

Health and Safety Code Section 129850 authorizes the Office to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. The Office is also authorized to submit to the California Building Standards Commission for approval and adoption of building standards related to the seismic safety of hospital buildings.

Government Code Section 11152.5 authorizes a state department to adopt regulations pursuant to the Government Code. Regulations which are building standards, must be adopted pursuant to State Building Standards Law of the Health and Safety Code (commencing with 18901).

Summary of Existing Regulations

Title 24, Part 2, contains regulations pertaining to the construction of hospitals, skilled nursing facilities, licensed clinics, and correctional treatment centers. These regulations include service space requirements and administrative requirements.

Summary of Effect

The proposed action is to adopt the 2009 International Building Code for incorporation, by reference, into the 2010 California Building Code and to carry forward existing California amendments related to hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers.

Additionally, the proposal makes minor editorial and technical modifications for clarification; provides consistency within Title 24; provides coordination with Title 22, Licensing and Certification requirements; and provides new sound transmission requirements for hospitals that are consistent with the "2006 ATA Guidelines for Design and Construction of Health Care Facilities."

Comparable Federal Statute or Regulations

There is no federal statute or regulation related to this proposed action.

Policy Statement Overview

The intent of this proposal is to adopt the most recent model code requirements for health facility construction, pursuant to Health and Safety Code Section 18928. The OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. Additionally, OSHPD is responsible for amending model code requirements for these health facilities, as necessary.

**OTHER MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO ANY
SPECIFIC REGULATION OR CLASS
OF REGULATIONS**

There are no other matters to identify.

**MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The OSHPD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **No**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**

- D. Other nondiscretionary cost or savings imposed on local agencies: **No**
- E. Cost or savings in federal funding to the state: **No**

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

The OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact. The scope of the proposed action is to adopt the most recent model code pursuant to statutory requirements and to carry forward existing California amendments from the 2007 California Building Code and to make necessary minor technical modifications.

**FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE**

OSHPD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

OSHPD has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.
 - These regulations will have no affect.
- The creation of new businesses or the elimination of existing businesses within the State of California.

- These regulations will have no affect.
- The expansion of businesses currently doing business with the State of California.
- These regulations will have no affect.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

OSHDP has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

OSHDP must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, tom.morrison@dgs.ca.gov
Jane Taylor, jane.taylor@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Duane F. Borba, Acting Deputy Division Chief
Office of Statewide Health Planning and
Development
Facilities Development Division
400 R Street, Suite 200
Sacramento, CA 95811

regsunit@oshpd.ca.gov

(916) 440-8300
FAX (916) 324-9188

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) REGARDING THE ADOPTION BY REFERENCE OF THE 2009 EDITION OF THE INTERNATIONAL BUILDING CODE (IBC) WITH PROPOSED AMENDMENTS INTO THE 2010 CALIFORNIA BUILDING CODE (CBC) CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2 (HCD 1/09)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. HCD is proposing building standards related to the International Building Code (IBC).

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from **October 2, 2009, until 5:00 p.m. on November 16, 2009**. Please address your comments to:

**California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director**

Written comments may also be faxed to (916) 263-0959 or e-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). The CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written and/or oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 17000-17062.5, 17910-17995.5, 18200-18700, 18860-18874, and 19960-19997; and Government Code Sections 12955.1 and 12955.1.1. HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.3, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17927, 17928, 17959.6, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1-18873.5, 18938.3, 18944.11 and 19990; and Government Code Section 12955.1.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 17921 and Government Code Section 12955.1 require HCD to propose the

adoption, amendment, or repeal of building standards by the CBSC.

Health and Safety Code Sections 17922 and 19990 require that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

Health and Safety Code Section 17922 also states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

Health and Safety Code Section 17040 requires HCD to adopt building standards for employee housing for "... the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing."

Health and Safety Code Sections 18300, 18620, 18640, 18865, 18873 and 18873.2 requires HCD to adopt building standards for mobilehome parks and special occupancy parks.

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

The California Building Code, Part 2 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, adopted by reference the 2006 International Building Code (IBC), with California amendments, effective on January 1, 2008.

The purpose of this code is to establish the minimum requirements necessary to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, accessibility, use and occupancy, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment.

Summary of Effect

HCD proposes to adopt by reference the 2009 edition of the IBC, with California amendments, as indicated on the proposed Matrix Adoption Table, into Title 24, Part 2 of the CCR for the following programs:

- a) State Housing Law: relative to residential occupancies, buildings or structures accessory thereto and as provided for through the federal Fair Housing Amendments Act and state law accessibility requirements, except where the application is for public use only.

- b) Employee Housing Act: relative to the occupancy of any buildings or structures on the property in accordance with Health and Safety Code Section 17040.
- c) Mobilehome Parks or Special Occupancy Parks: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with Health and Safety Code Sections 18300, 18620, 18640, 18865, 18865.3, 18873 and 18873.2.
- d) Factory-Built Housing Law: relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

The amendments provide consistency with model code format, state and federal laws and regulations, and unique California conditions. In addition, the amendments provide clarity and specificity, and give direction for the code user.

An in-depth discussion of the effect of the amendments may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

None.

Policy Statement Overview

The proposed regulations will adopt, amend or repeal existing building standards and establish new building standards which will affect the following: residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of General Design, Structural, and Fire and Life Safety Requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobilehome parks and special occupancy parks.

OTHER MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO ANY
SPECIFIC REGULATION OR CLASS
OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts; and therefore, does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: Health and Safety Code Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to the Commission pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of the Government Code. Part 2.5 of the Government Code requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location with the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- D. Other nondiscretionary cost or savings imposed on local agencies: NONE.
- E. Cost or savings in federal funding to the state: NONE.

Estimate: HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

HCD has made an initial determination that the proposed action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. (See *Economic Impact of the Proposed California Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

DECLARATION OF EVIDENCE

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS EFFECT

HCD has initially determined that a small business may be affected by these proposed regulations. (See *Economic Impact of the Proposed California Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

HCD has initially assessed whether or not, and to what extent, this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

- The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of existing business within the State of California.

- The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

(See *Economic Impact of the Proposed California Building Code Regulations on Private Persons and*

Businesses in the State of California in the rulemaking file.)

INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See *Economic Impact of the Proposed California Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternative considered by HCD, or that has otherwise been identified and brought to the attention of HCD, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF
RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This Notice, the Express Terms and Initial Statement of Reasons can also be accessed from the California Building Standards Commission website at <http://www.bsc.ca.gov>; in addition, the rulemaking documents will be posted on HCD's website at http://www.hcd.ca.gov/codes/shl/2010codeadoptproj_part2.html.

Interested parties may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website or HCD's website.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

CBSC Contact: Tom Morrison
(tom.morrison@dgs.ca.gov)

CBSC Back-up: If the contact person is unavailable, please contact Jane Taylor (jane.taylor@dgs.ca.gov) at the phone number or fax number provided below.

CBSC Address: California Building Standards Commission
2525 Natomas Park Drive,
Suite 130
Sacramento, CA 95833

CBSC Telephone: (916) 263-0916

CBSC Fax: (916) 263-0959

CBSC E-mail: CBSC@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Emily Withers
District Representative
Division of Codes and Standards
Department of Housing and Community
Development
Telephone: (916) 322-5129
E-mail: ewithers@hcd.ca.gov
Fax: (916) 327-4712

Back-up:

Shawn Huff
Housing Standards Programs Manager
Division of Codes and Standards
Department of Housing and Community
Development
Telephone: (916) 445-9471
E-mail: shuff@hcd.ca.gov
Fax: (916) 327-4712

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT (HCD)
REGARDING THE ADOPTION BY
REFERENCE OF THE
2009 EDITION OF THE INTERNATIONAL
EXISTING BUILDING CODE (IEBC)
INTO THE 2010 CALIFORNIA EXISTING
BUILDING CODE (CEBC)
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 10
(HCD 06/09)**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards that will appear in a new California code to be designated as the California Code of Regulations (CCR), Title 24, Part 10. HCD is proposing building standards related to the International Existing Building Code (IEBC).

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from **October 2, 2009**, until **5:00 p.m. on November 16, 2009**. Please address your comments to:

**California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director**

Written comments may also be faxed to (916) 263-0959 or e-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantial-

ly as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). The CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written and/or oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5. HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17921, 17922, 18300, 18620, 18640, 18865, 18865.3, 18873, 18873.2 and 19990; and Government Code Section 12955.1. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 17000–17060, 17910–17990, 18200–18700, 18860–18874 and 19960–19998; and Government Code Section 12955.1.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 17921 and Government Code Section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

Health and Safety Code Sections 17922 and 19990 require that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

Health and Safety Code Section 17922 also states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

Health and Safety Code Section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

Health and Safety Code Sections 18300, 18620, 18640, 18865, 18865.3, 18873 and 18873.2 require

HCD to adopt building standards for mobilehome parks and special occupancy parks.

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

The California Existing Building Code, Part 10 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, adopted by reference the 2006 International Existing Building Code with California amendments, effective January 1, 2008.

Summary of Effect

HCD proposes to adopt by reference the 2009 edition of the International Existing Building Code (IEBC) Appendix Chapter A1 as indicated on the proposed Matrix Adoption Table, into Title 24, Part 10 of the CCR for the following programs:

- a) State Housing Law: relative to residential occupancies, buildings or structures accessory thereto and as provided for through the federal Fair Housing Amendments Act and state law accessibility requirements, except where the application is for public use only.
- b) Employee Housing Act: relative to the occupancy of any buildings or structures on the property in accordance with Health and Safety Code Section 17040.
- c) Mobilehome Parks or Special Occupancy Parks: relative to any permanent buildings and accessory buildings and structures within the park in accordance with Health and Safety Code Sections 18300, 18620, 18640, 18865, 18865.3, 18873 and 18873.2.
- d) Factory-Built Housing Law: relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

For additional information, see the initial Statement of Reasons.

Comparable Federal Statute or Regulations

None.

Policy Statement Overview

The proposed regulations will adopt building conservation standards, which will affect residential occupancies, and buildings or structures accessory thereto.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts; and therefore, does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: Health and Safety Code Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to the Commission pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of the Government Code. Part 2.5 of the Government Code requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location with the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- D. Other nondiscretionary cost or savings imposed on local agencies: NONE.
- E. Cost or savings in federal funding to the state: NONE.

Estimate: HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

HCD has made an initial determination that the proposed action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. (See *Economic Impact of the Pro-*

posed California Existing Building Code Regulations on Private Persons and Businesses in the State of California in the rulemaking file.)

DECLARATION OF EVIDENCE

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS EFFECT

HCD has initially determined that a small business may be affected by these proposed regulations. (See *Economic Impact of the Proposed California Existing Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

HCD has initially assessed whether or not, and to what extent, this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

- The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of existing business within the State of California.

- The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

(See *Economic Impact of the Proposed California Existing Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See *Economic Impact of the Proposed California Existing Building Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternative considered by HCD, or that has otherwise been identified and brought to the attention of HCD, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This Notice, the Express Terms and Initial Statement of Reasons can also be accessed from the California Building Standards Commission website at <http://www.bsc.ca.gov>; in addition, the rulemaking documents will be posted on HCD's website at

http://www.hcd.ca.gov/codes/shl/2010codeadopt-proj_part10.html.

Interested parties may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website or HCD's website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

CBSC Contact: Tom Morrison
(tom.morrison@dgs.ca.gov)

CBSC Back-up: If the contact person is unavailable, please contact Jane Taylor (jane.taylor@dgs.ca.gov) at the phone number or fax number provided below.

CBSC Address: California Building Standards Commission
2525 Natomas Park Drive,
Suite 130
Sacramento, CA 95833

CBSC Telephone: (916) 263-0916

CBSC Fax: (916) 263-0959

CBSC E-mail: CBSC@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Shawn Huff
Housing Standards Programs Manager
Division of Codes and Standards
Department of Housing and Community Development
Telephone: (916) 445-9471
E-mail: shuff@hcd.ca.gov
Fax: (916) 327-4712

Back-up:

Doug Hensel
Assistant Deputy Director
Division of Codes and Standards
Department of Housing and Community
Development
Telephone: (916) 445-9471
E-mail: dhensel@hcd.ca.gov
Fax: (916) 327-4712

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) REGARDING THE ADOPTION BY REFERENCE OF THE 2009 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC) WITH PROPOSED AMENDMENTS INTO THE 2010 CALIFORNIA RESIDENTIAL CODE (CRC) CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2.5 (HCD 04/09)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards that will appear in a new California code to be designated as the California Code of Regulations (CCR), Title 24, Part 2.5. HCD is proposing building standards related to the International Residential Code (IRC).

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from **October 2, 2009**, until **5:00 p.m. on November 16, 2009**. Please address your comments to:

**California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director**

Written comments may also be faxed to (916) 263-0959 or e-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). The CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written and/or oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 17000-17062.5, 17910-17995.5, 18200-18700, 18860-18874, and 19960-19997; and Government Code Sections 12955.1 and 12955.1.1. HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.3, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17927, 17928, 17959.6, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1-18873.5, 18938.3, 18944.11 and 19990; and Government Code Section 12955.1.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 17921 and Government Code Section 12955.1 allow HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

Health and Safety Code Sections 17922 and 19990 require that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

Health and Safety Code Section 17922 also states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

Health and Safety Code Section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

Health and Safety Code Sections 18300, 18620, 18640, 18865, 18873 and 18873.2 requires HCD to adopt building standards for mobilehome parks and special occupancy parks.

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

There are no existing California amendments to the California Residential Code (CRC). The 2010 CRC is a new code for California.

Summary of Effect

HCD proposes to adopt by reference the 2009 edition of the International Residential Code (IRC), with California amendments, as indicated on the proposed Matrix Adoption Table, into Title 24, Part 2.5 of the CCR for the following programs:

- a) State Housing Law: relative to residential occupancies, buildings or structures accessory thereto and as provided for through the federal Fair Housing Amendments Act and state law accessibility requirements, except where the application is for public use only.
- b) Employee Housing Act: relative to the occupancy of any buildings or structures on the property in accordance with Health and Safety Code Section 17040.
- c) Mobilehome Parks or Special Occupancy Parks: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with Health and Safety Code Sections 18300, 18620, 18640, 18865, 18865.3, 18873 and 18873.2.
- d) Factory-Built Housing Law: relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

The amendments provide consistency with model code format, state and federal laws and regulations, and unique California conditions with regard to the construction of one- and two- family dwellings and

townhouses. In addition, the amendments provide clarity and specificity, and give direction for the code user.

An in-depth discussion of the effect of the amendments may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

None.

Policy Statement Overview

The proposed regulations will adopt, amend or repeal existing building standards to establish the minimum requirements necessary to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, accessibility, use and occupancy, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment regarding one- and two- family dwellings and townhouses.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts; and therefore, does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: Health and Safety Code Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to the Commission pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of the Government Code. Part 2.5 of the Government Code requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location with the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.

- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- D. Other nondiscretionary cost or savings imposed on local agencies: NONE.
- E. Cost or savings in federal funding to the state: NONE.

Estimate: HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

HCD has made an initial determination that the proposed action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. (See *Economic Impact of the Proposed California Residential Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

DECLARATION OF EVIDENCE

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS EFFECT

HCD has initially determined that a small business may be affected by these proposed regulations. (See

Economic Impact of the Proposed California Residential Code Regulations on Private Persons and Businesses in the State of California in the rulemaking file.)

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

HCD has initially assessed whether or not, and to what extent, this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

- The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of existing business within the State of California.

- The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

(See *Economic Impact of the Proposed California Residential Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See *Economic Impact of the Proposed California Residential Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternative considered by HCD, or that has otherwise been identified and brought to the attention of HCD, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This Notice, the Express Terms and Initial Statement of Reasons can also be accessed from the California Building Standards Commission website at <http://www.bsc.ca.gov>; in addition, the rulemaking documents will be posted on HCD's website at http://www.hcd.ca.gov/codes/shl/2010codeadoptproj_part2.5.html.

Interested parties may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website or HCD's website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

CBSC Contact: Tom Morrison
(tom.morrison@dgs.ca.gov)

CBSC Back-up: If the contact person is unavailable, please contact Jane Taylor (jane.taylor@dgs.ca.gov) at the phone number or fax number provided below.

CBSC Address: California Building Standards
Commission
2525 Natomas Park Drive,
Suite 130
Sacramento, CA 95833

CBSC Telephone: (916) 263-0916

CBSC Fax: (916) 263-0959

CBSC E-mail: CBSC@dgs.ca.gov

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Shawn Huff
Housing Standards Programs Manager
Division of Codes and Standards
Department of Housing and Community
Development
Telephone: (916) 327-2816
E-mail: shuff@hcd.ca.gov
Fax: (916) 327-4712

Back-up:

Emily Withers
District Representative
Division of Codes and Standards
Department of Housing and Community
Development
Telephone: (916) 322-5129
E-mail: ewithers@hcd.ca.gov
Fax: (916) 327-4712

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF THE STATE FIRE MARSHAL
(SFM)
REGARDING MODIFICATIONS OF THE
2010 CALIFORNIA REFERENCED
STANDARDS CODE
CALIFORNIA CODE OF REGULATIONS
TITLE 24, PART 12**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of the State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish building standards contained in the California Code of Regulations (CCR), Title 24, Part 12.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted by the California Building Standards Commission regarding the proposed changes from October 2, 2009 until 5 p.m. on November 16, 2009. Comments may be made using the form on CBSC's web site at www.bsc.ca.gov and either mailed or faxed to:

Please address your comments to:

**California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director**

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code section 18949.2. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18928.

The SFM is proposing this regulatory action pursuant to Health and Safety Code Sections 13108, 13113, 13113.5, 13114, 13132.7, 13133, 13135, 13143, 13143.1, 13143.6, 13143.9, 13146, 13211, 17921 and 18897.3 and Government Code Section 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 13108(a) The State Fire Marshal shall prepare and adopt building standards related to the means of egress, the installation of fire alarms and fire extinguishing systems in any state-owned building or in any state-occupied building.

Health and Safety Code Section 13113 A automatic sprinkler system shall be installed in all 24-hour institutional type occupancies, and homes for the care of aged or senile persons.

Health and Safety Code Section 13113.5 The State Fire Marshal shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114(a) The State Fire Marshal shall adopt regulations and standards to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state, and that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

Health and Safety Code Section 13132 Every person, firm, or corporation maintaining or operating any facility for the care of the mentally handicapped shall file a statement with the fire authority having jurisdiction within five days of the admission or readmission of a patient stating that such patient is an ambulatory or a nonambulatory person and enumerating the reasons for such classification. Such a statement shall also be filed for each existing patient within 30 days of the effective date of this section.

Any statement required to be filed pursuant to this section shall be certified as to its correctness by the person attending such patient.

It shall be unlawful for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. Any such act shall be in violation of this section and subject to the provisions of Section 13112.

Health and Safety Code Section 13132.7 Mandates fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133(a) The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, and residential care facilities for the elderly. These fire safety standards shall apply uniformly throughout the state.

Health and Safety Code Section 13135 The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities based on whether the residents or patients of the facilities are nonambulatory.

Health and Safety Code Section 13143 grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, chil-

dren's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1(a) The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.6(a) The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9(a) The State Fire Marshal shall prepare, adopt, and submit building standards and other fire and life safety regulations establishing minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13211 The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 17921(b) The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18928(a) requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18897.3 Except as provided in Section 18930, the State Fire Marshal shall adopt minimum fire safety regulations for organized camps in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

3 of Title 2 of the Government Code. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

Health and Safety Code Section 18949.2(b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

(c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 12, 2007 California Referenced Standards Code with SFM amendments relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The Office of the State Fire Marshal (SFM) general purpose of this proposed action is principally intended to modify Standards contained in Part 12 the California Referenced Standards Code for the 2010 edition of the California Referenced Standards Code. SFM further proposes to:

- Adopt new SFM standards or necessary modifications to existing SFM standards.
- Repeal certain SFM standards that are no longer necessary.

The SFM is proposing amendments to CRSC Chapter 12-7A to simplify user application of the SFM test standards pertaining to wildfire protection building construction, to clarify the intent of the regulations, and to adopt new standards. These proposed amendments are correlated with the CBC, CFC, and CRC rulemaking effort and are based on recommendations of an ad hoc advisory group established by the SFM. The work of the Wildfire Protection Building Construction "2010 CBC Ch7A" Task Force as well as the purpose and rationale for the rulemaking effort are described in the Initial Statement of Reasons for the 2010 CBC CCR Title

24 Part 2, and are applicable to these CCR Title 24 Part 12 proposed actions.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The broad objectives of these proposed regulations is to specifically comply with Health and Safety Code Section 18928 that requires each proposing state agency to take action on the model code within one year after it's publication.

The intent of this proposed action is to make modification to SFM Standards contained in Title 24, Part 12 the California Referenced Standards Code. The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Referenced Standards Code, establish and or maintain minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

**OTHER MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO ANY
SPECIFIC REGULATION OR CLASS
OF REGULATIONS**

The SFM has determined that there are no other prescribed statutes or to any specific regulation or class of regulation applicable to the adoption by reference and the amendments relating to the California Referenced Standards Code.

**MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**

- E. Cost or savings in federal funding to the state: **NO**

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

The SFM has made an initial determination that this proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The SFM affirms that this rulemaking action complies specifically with the mandates of Health and Safety Code Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM as shown in the Informative Digest.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

**FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE**

The SFM has made an assessment of the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

The SFM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

The SFM has assessed that adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California; or
- Affect the expansion of businesses currently doing business within California.

**INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS**

The SFM has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code §11346.5 subdivision (a)(13), the SFM has determined that no reasonable alternative considered by it or that has been otherwise identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

Thomas L. Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov
(916) 263-0916
(916) 263-0959 FAX

Jane Taylor, Senior Architect
Jane.Taylor@dgs.ca.gov
(916) 263-0916
(916) 263-0959 FAX

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Kevin Reinertson, Acting Division Chief
Office of the State Fire Marshal,
Code Development and Analysis Division
kevin.reinertson@fire.ca.gov
(916) 327-4998
(916) 445-8459 FAX

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF THE STATE FIRE MARSHAL
(SFM)
REGARDING THE ADOPTION BY
REFERENCE OF THE
2009 EDITION OF THE INTERNATIONAL
BUILDING CODE (IBC)
WITH AMENDMENTS INTO THE 2010
CALIFORNIA BUILDING CODE (CBC)
CALIFORNIA CODE OF REGULATIONS
TITLE 24, PART 2**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of the State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The SFM is proposing building standards related to the 2009 International Building Code.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted by the California Building Standards Commission regarding the proposed changes from October 2, 2009 until 5 p.m. on November 16, 2009. Comments may be made using the form on CBSC's web site at www.bsc.ca.gov and either mailed or faxed to:

Please address your comments to:

**California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director**

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code section 18949.2. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18928.

The SFM is proposing this regulatory action pursuant to Health and Safety Code Sections 13108, 13113, 13113.5, 13114, 13132.7, 13133, 13135, 13143, 13143.1, 13143.6, 13143.9, 13146, 13211, 17921 and 18897.3 and Government Code Section 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 13108(a) The State Fire Marshal shall prepare and adopt building standards related to the means of egress, the installation of fire alarms and fire extinguishing systems in any state-owned building or in any state-occupied building.

Health and Safety Code Section 13113 A automatic sprinkler system shall be installed in all 24-hour institutional type occupancies, and homes for the care of aged or senile persons.

Health and Safety Code Section 13113.5 The State Fire Marshal Shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114(a) The State Fire Marshal shall adopt regulations and standards to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state, and that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

Health and Safety Code Section 13132 Every person, firm, or corporation maintaining or operating any facility for the care of the mentally handicapped shall file a statement with the fire authority having jurisdiction within five days of the admission or readmission of a patient stating that such patient is an ambulatory or a nonambulatory person and enumerating the reasons for such classification. Such a statement shall also be filed for each existing patient within 30 days of the effective date of this section.

Any statement required to be filed pursuant to this section shall be certified as to its correctness by the person attending such patient.

It shall be unlawful for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. Any such act shall be in violation of this section and subject to the provisions of Section 13112.

Health and Safety Code Section 13132.7 Mandates fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133(a) The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, and residential care facilities for the elderly. These fire safety standards shall apply uniformly throughout the state.

Health and Safety Code Section 13135 The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities based on whether the residents or patients of the facilities are nonambulatory.

Health and Safety Code Section 13143 grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the pre-

vention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1(a) The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.6(a) The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9(a) The State Fire Marshal shall prepare, adopt, and submit building standards and other fire and life safety regulations establishing minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13211 The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 17921(b) The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18928(a) requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18897.3 Except as provided in Section 18930, the State Fire Marshal shall adopt minimum fire safety regulations for organized camps in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

Health and Safety Code Section 18949.2(b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

(c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 2, 2007 California Building Code with SFM amendments relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to update and codify a new edition of the California Building Code (California Code of Regulations, Title 24, Part 2) based upon a more current edition of a model code. The current California Building Code in effect is the 2007 California Building Code which is based upon the 2006 International Building Code of the International Code Council. This proposed action:

- Repeal the adoption by reference of the 2006 International Building Code of the International Code Council and incorporate and adopt by reference in its place the 2009 International Building Code of the International Code Council for application and effectiveness in the 2010 California Building Code pursuant to Health and Safety Code 18928. Health and Safety Code

18928 requires any state agency adopting model codes to adopt the most recent edition.

- Repeal certain amendments to the 2006 International Building Code and/or California Building Standards not addressed by the model code that are no longer necessary pursuant with Health and Safety Code 18930(a)(7).
- Adopt new building standards or necessary amendments to the 2009 International Building Code that address inadequacies of the 2009 International Building Code as they pertain to California laws.
- Bring forward previously existing California building standards or amendments, which represent no change in their effect from the 2007 California Building Standards Code.
- Codify non-substantive editorial and formatting amendments from the format based upon the 2006 International Building Code to the format of the 2009 International Building Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The broad objectives of these proposed regulations is to specifically comply with Health and Safety Code Section 18928 that requires each proposing state agency to take action on the model code within one year after it's publication.

The intent of this proposed action is to adopt by reference the 2009 International Building Code and amend said document with existing 2007 SFM amendments. The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Building Code, establish and or maintain minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

The SFM has determined that there are no other prescribed statutes or to any specific regulation or class of regulation applicable to the adoption by reference and the amendments relating to the 2009 International Building Code.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- Cost or Savings to any state agency: **NO**
- Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- Other nondiscretionary cost or savings imposed on local agencies: **NO**
- Cost or savings in federal funding to the state: **NO**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The SFM has made an initial determination that this proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The SFM affirms that this rulemaking action complies specifically with the mandates of Health and Safety Code Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM as shown in the Informative Digest.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

The SFM has made an assessment of the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

The SFM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

The SFM has assessed that adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California; or
- Affect the expansion of businesses currently doing business within California.

**INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS**

The SFM has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code §11346.5 subdivision (a)(13), the SFM has determined that no reasonable alternative considered by it or that has been otherwise identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at

the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

Thomas L. Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov
(916) 263-0916
(916) 263-0959 FAX

Jane Taylor, Senior Architect
Jane.Taylor@dgs.ca.gov
(916) 263-0916
(916) 263-0959 FAX

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Kevin Reinertson, Acting Division Chief
Office of the State Fire Marshal,
Code Development and Analysis Division
kevin.reinertson@fire.ca.gov
(916) 327-4998
(916) 445-8459 FAX

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF THE STATE FIRE MARSHAL
(SFM)
REGARDING THE ADOPTION BY
REFERENCE OF THE
2009 EDITION OF THE INTERNATIONAL
RESIDENTIAL CODE (IRC)
WITH AMENDMENTS INTO THE 2010
CALIFORNIA RESIDENTIAL CODE (CRC)
CALIFORNIA CODE OF REGULATIONS
TITLE 24, PART 2.5**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of the State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish building standards contained

in the California Code of Regulations (CCR), Title 24, Part 2.5. The SFM is proposing building standards related to the 2009 International Residential Code.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted by the California Building Standards Commission regarding the proposed changes from October 2, 2009 until 5 p.m. on November 16, 2009. Comments may be made using the form on CBSC's web site at www.bsc.ca.gov and either mailed or faxed to:

Please address your comments to:

**California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director**

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code section 18949.2. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18928.

The SFM is proposing this regulatory action pursuant to Health and Safety Code Sections 13108, 13113, 13113.5, 13114, 13132.7, 13133, 13135, 13143, 13143.1, 13143.6, 13143.9, 13146, 13211, 17921 and 18897.3 and Government Code Section 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 13108(a) The State Fire Marshal shall prepare and adopt building standards related to the means of egress, the installation of fire alarms and fire extinguishing systems in any state-owned building or in any state-occupied building.

Health and Safety Code Section 13113 A automatic sprinkler system shall be installed in all 24-hour institutional type occupancies, and homes for the care of aged or senile persons.

Health and Safety Code Section 13113.5 The State Fire Marshal Shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114(a) The State Fire Marshal shall adopt regulations and standards to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state, and that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

Health and Safety Code Section 13132 Every person, firm, or corporation maintaining or operating any facility for the care of the mentally handicapped shall file a statement with the fire authority having jurisdiction within five days of the admission or readmission of a patient stating that such patient is an ambulatory or a nonambulatory person and enumerating the reasons for such classification. Such a statement shall also be filed for each existing patient within 30 days of the effective date of this section.

Any statement required to be filed pursuant to this section shall be certified as to its correctness by the person attending such patient.

It shall be unlawful for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. Any such act shall be in violation of this section and subject to the provisions of Section 13112.

Health and Safety Code Section 13132.7 Mandates fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133(a) The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, and residential care facilities for the elderly. These fire safety standards shall apply uniformly throughout the state.

Health and Safety Code Section 13135 The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities based on whether the residents or patients of the facilities are nonambulatory.

Health and Safety Code Section 13143 grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1(a) The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.6(a) The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9(a) The State Fire Marshal shall prepare, adopt, and submit building standards and other fire and life safety regulations establishing minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13211 The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 17921(b) The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of

Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18928(a) requires each state agency adopting or proposing adoption of a model code, national standards, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18897.3 Except as provided in Section 18930, the State Fire Marshal shall adopt minimum fire safety regulations for organized camps in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

Health and Safety Code Section 18949.2(b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

(c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 2, 2007 California Building Code with SFM amendments relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above for one and two family dwellings.

Summary of Effect

The general purpose of this proposed action is principally intended to adopt by reference amend and codify a new Part to the California Building Standards Code

creating California Code of Regulations, Title 24, Part 2.5 based upon the current edition of a model code the International Residential Code. The current California Building Code in effect for one- and two- family dwellings is the 2007 California Building Code which is based upon the 2006 International Building Code of the International Code Council. This proposed action:

- Repeal the adoption by reference of the 2006 International Building Code and incorporate and adopt by reference the 2009 International Residential Code for application and effectiveness in the 2010 California Residential Code.
- Repeal certain amendments to the 2006 International Building Code and/or California Building Standards not addressed by the model code that are no longer necessary.
- Adopt new building standards or necessary amendments to the 2009 International Residential Code that address inadequacies of the 2009 International Residential Code as they pertain to California laws.
- Bring forward previously existing California building standards or amendments, which represent no change in their effect from the 2007 California Building Standards Code.
- Codify non-substantive editorial and formatting amendments from the format based upon the 2006 International Building Code to the format of the 2009 International Residential Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The broad objectives of these proposed regulations is to specifically comply with Health and Safety Code Section 18928 that requires each proposing state agency to take action on the model code within one year after its publication.

The intent of this proposed action is to adopt by reference the 2009 International Residential Code and amend said document with existing 2007 California Building Code amendments. The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Residential Code establish and/or maintain minimum requirements for the prevention of fire for the protection of life and property against fire in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the adoption by reference and the amendments relating to the 2009 International Residential Code.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The SFM has made an initial determination that this proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

The SFM affirms that this rulemaking action complies specifically with the mandates of Health and Safety Code Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM as shown in the Informative Digest.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting businesses in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

**FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE**

The SFM has made an assessment of the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

The SFM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

The SFM has assessed that adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California; or
- Affect the expansion of businesses currently doing business within California.

**INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS**

The SFM has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code §11346.5 subdivision (a)(13), the SFM has determined that no reasonable alternative considered by it or that has been otherwise identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

Thomas L. Morrison, Deputy Executive Director

Tom.Morrison@dgs.ca.gov

(916) 263-0916

(916) 263-0959 FAX

Jane Taylor, Senior Architect

Jane.Taylor@dgs.ca.gov

(916) 263-0916

(916) 263-0959 FAX

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Kevin Reinertson, Acting Division Chief

Office of the State Fire Marshal,

Code Development and Analysis Division

kevin.reinertson@fire.ca.gov

(916) 327-4998

(916) 445-8459 FAX

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION FOR PROPOSED BUILDING STANDARDS OF THE OFFICE OF THE STATE FIRE MARSHAL (SFM) REGARDING THE ADOPTION BY REFERENCE OF THE 2009 EDITION OF THE INTERNATIONAL FIRE CODE (IFC) WITH AMENDMENTS INTO THE 2010 CALIFORNIA FIRE CODE (CFC) CALIFORNIA CODE OF REGULATIONS TITLE 24, PART 9

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of the State Fire Marshal (SFM) proposes to adopt, approve, codify, and publish building standards contained in the California Code of Regulations (CCR), Title 24, Part 9. The SFM is proposing building standards related to the 2009 International Fire Code.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted by the California Building Standards Commission regarding the proposed changes from October 2, 2009 until 5 p.m. on November 16, 2009. Comments may be made using the form on CBSC's web site at www.bsc.ca.gov and either mailed or faxed to:

Please address your comments to:

**California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director**

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantial-

ly as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code section 18949.2. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code section 18928.

The SFM is proposing this regulatory action pursuant to Health and Safety Code Sections 13108, 13113, 13113.5, 13114, 13132.7, 13133, 13135, 13143, 13143.1, 13143.6, 13143.9, 13146, 13211, 17921 and 18897.3 and Government Code Section 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 13108(a) The State Fire Marshal shall prepare and adopt building standards related to the means of egress, the installation of fire alarms and fire extinguishing systems in any state-owned building or in any state-occupied building.

Health and Safety Code Section 13113 An automatic sprinkler system shall be installed in all 24-hour institutional-type occupancies, and homes for the care of aged or senile persons.

Health and Safety Code Section 13113.5 The State Fire Marshal shall adopt regulations requiring the installation of automatic smoke detectors in all facilities which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

Health and Safety Code Section 13114(a) The State Fire Marshal shall adopt regulations and standards to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state, and that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

Health and Safety Code Section 13132 Every person, firm, or corporation maintaining or operating any facility for the care of the mentally handicapped shall file a statement with the fire authority having jurisdiction within five days of the admission or readmission of a patient stating that such patient is an ambulatory or a nonambulatory person and enumerating the reasons for such classification. Such a statement shall also be filed for each existing patient within 30 days of the effective date of this section.

Any statement required to be filed pursuant to this section shall be certified as to its correctness by the person attending such patient.

It shall be unlawful for any person, firm, or corporation required to file a statement pursuant to this section to include false statements therein. Any such act shall be in violation of this section and subject to the provisions of Section 13112.

Health and Safety Code Section 13132.7 Mandates fire retardant roof coverings in fire hazard severity zones.

Health and Safety Code Section 13133(a) The State Fire Marshal shall develop and adopt regulations establishing new occupancy classifications and specific fire safety standards appropriate for residential facilities, and residential care facilities for the elderly. These fire safety standards shall apply uniformly throughout the state.

Health and Safety Code Section 13135 The State Fire Marshal shall adopt regulations for alcoholism or drug abuse recovery or treatment facilities based on whether the residents or patients of the facilities are nonambulatory.

Health and Safety Code Section 13143 grants the State Fire Marshal authority to prepare and adopt regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education.

Health and Safety Code Section 13143.1(a) The State Fire Marshal shall prepare, adopt, and submit building standards for establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility.

Health and Safety Code Section 13143.6(a) The State Fire Marshal shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a home or institution for the housing of any person of any age for protective social care and supervision services by any governmental agency, certified family care homes, out-of-home placement facilities, and halfway houses.

Health and Safety Code Section 13143.9(a) The State Fire Marshal shall prepare, adopt, and submit building standards and other fire and life safety regulations establishing minimum requirements for the storage, handling, and use of hazardous materials.

Health and Safety Code Section 13211 The State Fire Marshal shall prepare and adopt building standards relating to fire and panic safety in high-rise structures.

Health and Safety Code Section 17921(b) The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Health and Safety Code Section 18928(a) requires each state agency adopting or proposing adoption of a model code, national standards, or specifications shall reference the most recent edition of applicable model codes, national standards, or specifications.

Health and Safety Code Section 18897.3 Except as provided in Section 18930, the State Fire Marshal shall adopt minimum fire safety regulations for organized camps in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

Health and Safety Code Section 18949.2(b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved

in development of the state's codes related to fire and life safety.

(c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

Summary of Existing Regulations

The SFM currently adopts by reference the California Code of Regulations, Title 24, Part 9, 2007 California Fire Code with SFM amendments relating to regulations that establish minimum requirements for the prevention of fire and for the protection of life and property against fire and in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above.

Summary of Effect

The general purpose of this proposed action is principally intended to update and codify a new edition of the California Fire Code (California Code of Regulations, Title 24, Part 9) based upon a more current edition of a model code. The current California Building Code in effect is the 2007 California Fire Code which is based upon the 2006 International Fire Code of the International Code Council. This proposed action:

- Repeal the adoption by reference of the 2006 Fire Building Code of the International Code Council and incorporate and adopt by reference in its place the 2009 International Fire Code of the International Code Council for application and effectiveness in the 2010 California Fire Code pursuant to Health and Safety Code 18928. Health and Safety Code 18928 requires any state agency adopting model codes to adopt the most recent edition.
- Repeal certain amendments to the 2006 International Fire Code and/or California Building Standards not addressed by the model code that are no longer necessary pursuant with Health and Safety Code 18930(a)(7).
- Adopt new building standards or necessary amendments to the 2009 International Fire Code that address inadequacies of the 2009 International Fire Code as they pertain to California laws.
- Bring forward previously existing California building standards or amendments, which represent no change in their effect from the 2007 California Building Standards Code.

- Codify non-substantive editorial and formatting amendments from the format based upon the 2006 International Fire Code to the format of the 2009 International Fire Code.

Comparable Federal Statute or Regulations

The SFM has determined that there are no comparable federal regulations or statutes addressing the fire and life safety requirements as presented in this notice.

Policy Statement Overview

The broad objectives of these proposed regulations is to specifically comply with Health and Safety Code Section 18928 that requires each proposing state agency to take action on the model code within one year after its publication.

The intent of this proposed action is to adopt by reference the 2009 International Fire Code and amend said document with existing 2007 SFM amendments. The SFM further proposes to offer new amendments where necessary to ensure that the regulations of the California Fire Code establish and/or maintain minimum requirements for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as defined in each of the Health and Safety Code references shown above in the summary of existing laws.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

The SFM has determined that there are no other prescribed statutes or any specific regulation or class of regulation applicable to the adoption by reference and the amendments relating to the 2009 International Fire Code.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The SFM has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**

- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

The SFM has made an initial determination that this proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The SFM affirms that this rulemaking action complies specifically with the mandates of Health and Safety Code Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM as shown in the Informative Digest.

Therefore, the SFM's initial determination of no significant, statewide adverse economic impact directly affecting businesses in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

**FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE**

The SFM has made an assessment of the proposed code changes and has determined that these changes would not require a report; therefore, a finding is not necessary for the health, safety, or welfare of the people of the state that the regulation is applicable to businesses.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

The SFM is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

The SFM has assessed that adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California; or

- Affect the expansion of businesses currently doing business within California.

**INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS**

The SFM has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code §11346.5 subdivision (a)(13), the SFM has determined that no reasonable alternative considered by it or that has been otherwise identified and brought to the attention of the SFM would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

Thomas L. Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov
(916) 263-0916
(916) 263-0959 FAX

Jane Taylor, Senior Architect
Jane.Taylor@dgs.ca.gov
(916) 263-0916
(916) 263-0959 FAX

PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Kevin Reinertson, Acting Division Chief
Office of the State Fire Marshal,
Code Development and Analysis Division
kevin.reinertson@fire.ca.gov
(916) 327-4998
(916) 445-8459 FAX

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION TO
BUILDING STANDARDS
OF THE CALIFORNIA BUILDING
STANDARDS COMMISSION (CBSC)**

**REGARDING ADOPTION OF AMENDMENTS
TO THE 2010 CALIFORNIA BUILDING
STANDARDS CODE, TITLE 24, CALIFORNIA
CODE OF REGULATIONS (CCR), PARTS 2, 3,
4, 5 and 6 in TITLE 24, CCR, PART 11,
CALIFORNIA GREEN BUILDING
STANDARDS CODE**

Notice is hereby given that CBSC proposes to adopt, approve, codify, and publish primarily voluntary green building standards in CCR, Title 24, Part 11, which is currently reserved.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009, until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or emailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15

days prior to the close of the written comment period, that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code (H&SC) Sections 16600, 18928, 18930.5, 18934.5, 18934.6, and 18938(b) and Government Code Section 14617. The purpose of these building standards is to implement, interpret, and make specific the provisions of H&SC, Sections 16600 through 16604 and Division 13, Part 2.5, commencing with Section 18901; and Government Code Sections 14617.

INFORMATIVE DIGEST

Summary of Existing Laws

H&SC Section 16600 authorizes the commission and the Division of the State Architect to develop and adopt building seismic retrofit guidelines for state buildings.

H&SC Section 18928 authorizes the commission to adopt the most recent edition of model codes, national standards, or specifications.

H&SC Section 18934.5 sets forth that, where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

H&SC Section 18934.6 mandates that the commission shall adopt, approve, codify, and publish by reference Appendix Chapter 1 of the International Existing Building Code for providing the minimum standards for unreinforced masonry buildings.

H&SC 18930.5 grants CBSC the authority, if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

H&SC Section 18938(b) provides that model code standards as referenced in the California Building Standards Code (CCR, Title 24) shall apply to all occupancies throughout the state, and shall become effective 180 days after publication in the California Building Standards Code by CBSC, or on a later date after publication established by CBSC.

H&SC Section 38500 et seq. (AB 32, Stats 2006, c. 488) requires a cap on greenhouse gas (GHG) emissions by 2020, mandatory emissions reporting, and a market-based compliance program.

Government Code Section 14617 authorizes the commission and the Division of State Architect to establish a standard of lighting for parking lots at the University of California, California State University, and California Community Colleges.

Government Code Sections 65601 through 65607 regulate use of recycled water in landscaping.

Public Resources Code Sections 42900 through 42911 provide for access in development projects to adequate areas for collection and loading of recyclable materials, and include a model ordinance for local agency adoption.

Summary of Existing Regulations

California Code of Regulations (CCR), Title 24, also referred to as the 2007 California Building Standards Code incorporates the following:

- Part 5, the California Plumbing Code, with Appendix G graywater irrigation standards authored by Department of Water Resources.
- Part 6, the California Energy Code, which contains minimum energy efficiency standards for non-residential buildings in California promulgated by the California Energy Commission (CEC).
- Part 11, the California Green Building Standards Code (CGBSC), which contains mandatory and voluntary green building standards for residential, nonresidential, and medical facilities.

Other relevant CCR titles:

- Title 17 includes regulations for air quality promulgated by the California Air Resources Board.
- Title 20, Article 4, Appliance Efficiency regulations, contains CEC standards for water consumption of widely used plumbing fixtures.

- Title 23 includes the Model Water Efficient Landscape Ordinance recently updated by Department of Water Resources.

Summary of Governor's Executive Orders

S-20-04, December 14, 2004, instructs state entities to design, construct, and operate all new and renovated state-owned facilities paid for with state funds as "LEED Silver" or higher certified buildings.

S-3-05, June 1, 2005, establishes targets for limiting GHG emissions to 2000 levels by 2010, to 1990 levels by 2020, and to 80% of 1990 levels by 2050. It directs the Secretary of the Environmental Protection Agency (EPA) to coordinate this effort with the Secretary of the Business, Transportation and Housing Agency, Secretary of the Department of Food and Agriculture, Secretary of the Resources Agency, Chairperson of the Air Resources Board, Chairperson of the Energy Commission, and the President of the Public Utilities Commission. These agencies formed a Climate Action Team (CAT) to report to the governor by January, 2006 and periodically thereafter on strategies and progress in meeting the goals.

S-20-06, October 17, 2006, directs EPA to continue coordinating reduction of GHG emissions and development of market-based strategies for achievement, mandated by AB 32.

Summary of Effect

This proposed action will make effective mandatory and voluntary green building standards available in Title 24, Part 11 for buildings under authority of CBSC, on a date commensurate with the 2010 annual code adoption cycle, either 180 days after publication in Title 24 or at a later date to be determined by CBSC.

Comparable Federal Statute or Regulations

The Environmental Protection Agency (EPA) defines "Brownfield Development", an option proposed for site planning and design. EPA also regulates ozone-depleting and climate warming chemicals, as well as other air pollutants like wood smoke in updates to the 1970 Clean Air Act. The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., also known as the Clean Water Act) is adopted in California by the State Water Resources Control Board for management of storm water during construction.

Policy Statement Overview

The standards in the 2008 CGBSC were developed with assistance of a green building focus group made up of state agencies, building officials, industry representatives, model code publishers, and environmental organizations, drawing upon existing points-based green building programs (including LEED, the Collaborative for High Performance Schools, and Green Globes), best practices, guidelines, state agency laws and regulations,

draft national standards, and other published material. Working with the focus group in the first half of 2009, CBSC is proposing updated mandatory and voluntary standards for site planning and design, energy efficiency, water conservation, material conservation, and environmental quality, incorporating public comments received in the last code cycle as well as during the 2009 code development process.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

CBSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CBSC has determined that projects following the Green Building Code guidelines would impose a mandate on local agencies in the form of verification. However, the mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code. No mandate is imposed on school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or savings to any state agency: **None**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **None**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**
Estimate: **None**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

CBSC has made an initial determination that the adoption of this regulation will not have a significant

statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. The costs of the mandatory measures proposed are summarized in the Initial Statement of Reasons and in the Economic and Fiscal Impact Statement prepared by the agency, and are not considered significant when weighed against the benefits.

DECLARATION OF EVIDENCE

CBSC's initial determination of no significant, statewide adverse economic impact directly affecting businesses in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action over and above the Initial Statement of Reasons and the Economic and Fiscal Impact Statement which are part of this rulemaking.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

CBSC has made an assessment of the proposed code changes and has determined that these changes do not require a report.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

CBSC is aware of initial cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action. However, it is also anticipated that such costs would be recouped in long-range savings expressed in utility and transportation costs, worker productivity, health costs, and goodwill. The Initial Statement of Reasons and the Economic and Fiscal Impact Statement support this statement.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

CBSC has assessed whether or not and to what extent this proposal will affect the following:

- **The creation or elimination of jobs within the State of California.** These regulations, employing emerging green building technologies, products, and services, should create jobs within the State of California.

- **The creation of new businesses or the elimination of existing businesses within the State of California.** These regulations, employing emerging green building technologies, products, and services should create new business and should expand opportunities for existing business within the State of California.
- **The expansion of businesses currently doing business with the State of California.** These regulations will position California in the lead for statewide green building guidelines, and should provide opportunities for businesses currently doing business within the State of California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The CBSC must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the persons named below.

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below.

CBSC CONTACT PERSONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Jane Taylor, Senior Architect
jane.taylor@dgs.ca.gov

**2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959**

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE CALIFORNIA BUILDING STANDARDS COMMISSION (CBSC)

REGARDING APPENDIX CHAPTER A1 OF THE 2009 INTERNATIONAL EXISTING BUILDING CODE, CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 10

ADOPTION OF NEW MODEL CODE FOR USE IN CALIFORNIA AS TITLE 24, PART 10

Notice is hereby given that the California Building Standards Commission (CBSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 10, Title 24.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009, until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, CBSC may adopt the building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (H&SC) sections 18928, 18928.1, and 18934.6. The purpose of these building standards is to implement, interpret, and make specific the provisions of H&SC sections 18916, 18928, 18928.1, 18934.6, 18934.7, and 18938. CBSC is proposing this regulatory action based on H&SC section 18928.

INFORMATIVE DIGEST

Summary of Existing Laws

HS&C section 18916. Model code

Defines model code, including but not limited to, Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

HS&C section 18928. Model code, national standard, or specification; adoption of and reference to the most recent addition; date of publication; committee

Authorizes the commission to adopt the most recent edition of Appendix Chapter A1 of the International Existing Building Code (IEBC) of the International Code Council (ICC).

HS&C section 18928.1. Building standards; incorporation of model codes, applicable national specifications or published standards; publication agreement

Sets forth that each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent edition of the model code, as amended or proposed

to be amended by the adopting agency, within one (1) year after the date of publication of the model code, national standard, or specification.

HS&C section 18934.6. International Existing Building Code of the International Code Council; publication of standards; exception

Mandates the commission adopt by reference the building standards of Appendix Chapter 1 of the International Existing Building Code for Building Conservation for publication in the California Building Standards Code.

HS&C section 18934.7. International Existing Building Code of the International Code Council; publication of standards; exception

On or before January 1, 1993, the commission shall adopt, approve, codify, and publish by reference in the California Building Standards Code the building standards in Appendix Chapter 1 of the International Existing Building Code of the International Code Council to provide minimum standards for buildings specified in that appendix, except for buildings subject to building standards adopted pursuant to Part 1.5 (commencing with Section 17910).

HS&C section 18938. Filing and Codification; publication; effective date; emergency standards; application of section

Sets forth that the commission shall file building standards with the Secretary of State after approval and publish them only in Title 24. This section also provides that building standards contained in the model codes as referenced in the California Building Standards Code shall apply to all occupancies in the state and shall become effective 180 days after publication in the California Building Standards Code, or Title 24.

Summary of Existing Regulations

The existing 2007 Existing California Building Code (CEBC) is a part 10 of Title 24. It incorporates Appendix Chapter 1 of the 2006 International Existing Building Code (IEBC) of the International Code Council (ICC) without amendments for existing buildings, except for detached dwellings of less than five dwelling units, having at least one unreinforced masonry (URM) bearing wall, pursuant to 1986 URM Building Law.

Summary of Effect

This proposed action will make effective Appendix Chapter A1 of the 2009 IEBC of the ICC to occupancies identified pursuant to Health and Safety Code 18934.6 and 18934.7, 180 days after the publication of the next triennial edition of the CEBC. This proposed action by the California Building Standards Commission will also make the 2006 CEBC inoperative for future alterations to existing URM buildings in the highest Seismic Design Category, upon the effective date of the next triennial edition of the CEBC.

Comparable Federal Statute or Regulations

There are no comparable Federal statutes or regulations related to the proposed action by CBSC.

Policy Statement Overview

The broad objective of the adoption of the most current edition of the IEBC by reference is to provide an up to date reference document for existing URM buildings to be altered under the next triennial edition of the CCBC, thereby improving the results of seismic retrofitting programs initiated under the 1986 URM Building Law.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

CBSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CBSC has determined that the proposed regulatory action would impose a mandate on local agencies. However, the mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code. H&SC section 18928.1 requires CBSC to adopt the most current edition of the model codes. H&SC 18938(b) makes applicable the most current edition of the model building conservation code to all occupancies throughout the State of California as prescribed.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **HS&C section 18928.1 mandates the adoption of the most recent edition of the model code.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **HS&C section 18928.1 mandates the adoption of the most recent edition of the model code.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **HS&C section 18928.1 mandates the adoption of the most recent edition of the model code.**

- D. Other non-discretionary cost or savings imposed on local agencies: **HS&C section 18928.1 mandates the adoption of the most recent edition of the model code.**
- E. Cost or savings in federal funding to the state: **HS&C section 18928.1 mandates the adoption of the most recent edition of the model code.**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

CBSC has made an initial determination that the adoption of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

In its 2004 report to the Legislature titled "Status of the Unreinforced Masonry Building Law", SSC 2005-02, the Seismic Safety Commission recommended that state and local governments provide economic incentives to URM building owners to defray costs associated with retrofitting, which may have a positive impact on business.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

No report is required for this regulation.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

CBSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

CBSC has assessed whether or not and to what extent this proposal will affect the following:

- ☐ **The creation or elimination of jobs within the State of California.**

These regulations will not affect the creation of or elimination of jobs within the State of California.

- **The creation of new businesses or the elimination of existing businesses within the State of California.**

These regulations will not affect the creation of or the elimination of existing business within the State of California.

- **The expansion of businesses currently doing business with the State of California.**

These regulations will not affect the expansion of businesses currently doing business within the State of California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

CBSC must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov
 California Building Standards Commission
 2525 Natomas Park Drive, Suite 130
 Sacramento, CA 95833
 Telephone No.: (916) 263-0916
 Facsimile No.: (916) 263-0959

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Jane Taylor, Associate Architect
Jane.Taylor@dgs.ca.gov
 California Building Standards Commission
 2525 Natomas Park Drive, Suite 130
 Sacramento, CA 95833
 Telephone No.: (916) 263-0916
 Facsimile No.: (916) 263-0959

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DIVISION OF THE STATE ARCHITECT — STRUCTURAL SAFETY (DSA-SS)

REGARDING THE CALIFORNIA ADMINISTRATIVE CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division of the State Architect (DSA) proposes to adopt, approve, codify, and publish administrative standards contained in the California Code of Regulations (CCR), Title 24, Part 1.

The Division of the State Architect is proposing to amend administrative standards applicable to the structural design of public elementary and secondary schools, community colleges, and state-owned or state-leased essential services buildings.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted by the California

Building Standards Commission regarding the proposed changes from October 2, 2009 until 5:00 p.m. on November 16, 2009.

Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: E. David Walls, Executive Director

Written comments may also be faxed to (916) 263-0959, or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed administrative standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified administrative standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modification.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these administrative standards under the authority granted by Health and Safety Code Section 18930 and 18949.1. The purpose of these administrative standards is to implement, interpret, and make specific the provisions of Health & Safety Code Sections 16000-16023, and Education Code Sections 17280-17317 and 81130-81147. The Division of the State Architect is proposing this regulatory action based on Health & Safety Code Section 16022, and Education Code Sections 17310 and 81142.

INFORMATIVE DIGEST

Summary of Existing Laws

Section 16023 of the Health & Safety Code authorizes the State Architect to establish administrative standards for state-owned and state-leased essential services buildings.

Sections 17310 and 81142 of the Education Code authorize the State Architect to establish administrative standards for public elementary and secondary schools, and community colleges.

Summary of Existing Regulations

Existing administrative standards which prescribe administrative requirements for building design and construction of state-owned or state-leased essential services buildings, public elementary and secondary schools, and community colleges are promulgated by the Division of the State Architect. These regulations are contained in Title 24, Part 1.

Summary of Effect

The proposed action would make primarily editorial revisions and clarifications to existing provisions within Title 24, Part 1. Proposed changes also include provisions that would require seismic evaluation and retrofit as may be required for existing public school buildings located in high seismic regions and for which substantial alterations or renovations are proposed and state funds are used.

Project inspector disciplinary provisions, including an appeal process are also proposed.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain administrative regulations in conformance with current state law and other Parts of Title 24.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Division of the State Architect has determined that this proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NONE**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NONE**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NONE**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NONE**
- E. Cost or savings in federal funding to the state: **NONE**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Division of the State Architect has made an initial determination that this proposed regulatory action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

No facts, evidence, documents, testimony or other evidence has been relied upon to support the initial determination of no effect.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

The proposed regulatory action does not require a report by any business or agency, so the Division of the State Architect has not made a finding of necessity for public's health, safety or welfare.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Division of the State Architect is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed regulatory action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The Division of the State Architect has assessed whether or not, and to what extent, this proposed regulatory action will affect the following:

- The creation or elimination of jobs within the State of California.
The Division of the State Architect has determined that this proposed action has no effect.
- The creation of new businesses or the elimination of existing businesses within the State of California.
The Division of the State Architect has determined that this proposed action has no effect.
- The expansion of businesses currently doing business with the State of California.
The Division of the State Architect has determined that this proposed action has no effect.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The Division of the State Architect has made an initial determination that this proposed regulatory action **WOULD NOT** have a significant effect on housing costs. The CBSC contact designated below will make the Division of the State Architect's evaluation of the effect of the proposed regulatory action on housing costs available upon request.

CONSIDERATION OF ALTERNATIVES

The Division of the State Architect (DSA) has determined that no reasonable alternative considered by DSA or that has otherwise been identified and brought to the attention of DSA would be more effective in carrying out the purpose for which this action is proposed, or would be as effective and less burdensome to affected private persons than this proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review by contacting the person named below. This notice, the express terms, and initial statement of reasons can be accessed from the California Building Standards Commission website (<http://www.bsc.ca.gov>).

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Jane Taylor, Senior Architect
Jane.Taylor@dgs.ca.gov

2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Dennis Bellet
Ph. (916) 445-0783
Dennis.Bellet@dgs.ca.gov

Jeff Enzler
Ph. (916) 322-2490
Jeff.Enzler@dgs.ca.gov

Division of the State Architect
1102 Q Street, Suite 5100
Sacramento, CA 95811
DSA Facsimile No.: (916) 327-3371

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT —
STRUCTURAL SAFETY (DSA-SS)**

**REGARDING ADOPTION OF THE 2009
INTERNATIONAL BUILDING CODE (IBC)
FOR USE AS THE 2010 CALIFORNIA
BUILDING CODE IN THE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 2**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division

of the State Architect (DSA) proposes to adopt, approve, codify, and publish building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The Division of the State Architect is proposing to amend building standards applicable to the structural design of public elementary and secondary schools, community colleges, and state-owned or state-leased essential services buildings.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted by the California Building Standards Commission regarding the proposed changes from October 2, 2009 until 5:00 p.m. on November 16, 2009.

Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: E. David Walls, Executive Director

Written comments may also be faxed to (916) 263-0959, or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modification.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18930 and 18949.1. The purpose of these building standards is to implement, interpret, and make specific the

provisions of Health & Safety Code Sections 16000–16023, and Education Code Sections 17280–17317, 81130–81147, and 81052–81053. The Division of the State Architect is proposing this regulatory action based on Health & Safety Code Section 16022, and Education Code Sections 17310, 81142 and 81053.

INFORMATIVE DIGEST

Summary of Existing Laws

Section 16023 of the Health & Safety Code authorizes the State Architect to establish building standards for state-owned and state-leased essential services buildings.

Sections 17310 and 81142 of the Education Code authorize the State Architect to establish building standards for public elementary and secondary schools, and community colleges.

Sections 81052 and 81053 authorize the State Architect to establish building standards which a community college may elect to use in lieu of those standards promulgated in accordance with Education Code Sec. 81142.

Summary of Existing Regulations

Existing building standards which prescribe requirements for building design and construction of state-owned or state-leased essential services buildings, public elementary and secondary schools, and community colleges are promulgated by the Division of the State Architect. These regulations are contained in Title 24, Part 2, and are based on provisions within the adopted model building code.

Summary of Effect

The proposed action would update Title 24, Part 2, by adopting the most recent edition of the selected model building code (*International Building Code*, 2009 edition). The proposed action will also:

- Integrate currently adopted structural safety amendments into the updated Title 24, Part 2.
- Repeal currently adopted amendments deemed to be sufficiently addressed by the adopted model building code.
- Make editorial changes to currently adopted amendments to improve clarity or intent.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain building regulations in conformance with current

state law and nationally-recognized structural design standards.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Division of the State Architect has determined that this proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NONE**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NONE**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NONE**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NONE**
- E. Cost or savings in federal funding to the state: **NONE**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Division of the State Architect has made an initial determination that this proposed regulatory action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

No facts, evidence, documents, testimony or other evidence has been relied upon to support the initial determination of no effect.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

The proposed regulatory action does not require a report by any business or agency, so the Division of the

State Architect has not made a finding of necessity for public's health, safety or welfare.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Division of the State Architect is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed regulatory action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The Division of the State Architect has assessed whether or not, and to what extent, this proposed regulatory action will affect the following:

- The creation or elimination of jobs within the State of California.
The Division of the State Architect has determined that this proposed action has no effect.
- The creation of new businesses or the elimination of existing businesses within the State of California.
The Division of the State Architect has determined that this proposed action has no effect.
- The expansion of businesses currently doing business with the State of California.
The Division of the State Architect has determined that this proposed action has no effect.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The Division of the State Architect has made an initial determination that this proposed regulatory action **WOULD NOT** have a significant effect on housing costs. The CBSC contact designated below will make the Division of the State Architect's evaluation of the effect of the proposed regulatory action on housing costs available upon request.

CONSIDERATION OF ALTERNATIVES

The Division of the State Architect (DSA) has determined that no reasonable alternative considered by DSA or that has otherwise been identified and brought to the attention of DSA would be more effective in carrying out the purpose for which this action is proposed, or would be as effective and less burdensome to affected private persons than this proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review by contacting the person named below. This notice, the express terms, and initial statement of reasons can be accessed from the California Building Standards Commission website (<http://www.bsc.ca.gov>).

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Jane Taylor, Senior Architect
Jane.Taylor@dgs.ca.gov

2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Dennis Bellet
Ph. (916) 445-0783
Dennis.Bellet@dgs.ca.gov

John Gillengerten
Ph. (916) 323-1687
John.Gillengerten@dgs.ca.gov

Division of the State Architect
1102 Q Street, Suite 5100
Sacramento, CA 95811
DSA Facsimile No.: (916) 327-3371

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED CHANGES
TO
BUILDING STANDARDS
OF THE
DEPARTMENT OF WATER RESOURCES**

**REGARDING THE CALIFORNIA
BUILDING CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 2**

**TO UPDATE SELECT OCCUPANCY GROUPS
WITH FLOOD PROVISIONS FOR
AREAS PROTECTED BY THE FACILITIES OF
THE CENTRAL VALLEY FLOOD
PROTECTION PLAN**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Water Resources proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The Department of Water Resources is proposing building standards related to construction in areas protected by the facilities of the Central Valley Flood Protection Plan where flood levels are anticipated to exceed three feet for the 200-year (1/2% chance of occurrence in any year) flood event.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from **October 2, 2009** until 5:00 p.m. on **November 16, 2009**. Comments may be made using the form on CBSC's web site at www.bsc.ca.gov/ and either mailed or faxed to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by the Health and Safety Code (H&SC) Section 50465. The purpose of these building standards is to promote the public health, safety and general welfare and to minimize public and private losses due to flood damage to construction in specific flood prone areas of the Central Valley, consistent Water Code Sections 9600 to 9603. The Department of Water Resources is proposing this regulatory action based on authority granted in H&SC Section 50465.

Government Code Section 11152.5

INFORMATIVE DIGEST

Summary of Existing Laws

Section 50465 of the Health and Safety Code Section 50465 authorizes the Department of Water Resources to propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where flood levels are anticipated to exceed three feet for the 200-year flood event.

Summary of Existing Regulations

Existing regulations related to flood-oriented construction occur in the California Code of Regulations, Title 24, Part 2, Section 1612, 1612A, and Appendix G. In general, these regulations only apply to flood hazard areas as delineated by the Federal Emergency Management Agency, commonly referred to as "100-year" floodplains. Appendix G requirements are elective in nature.

Summary of Effect

The general purpose of this proposed action is principally to provide a Flood Evacuation Location to persons within homes in areas historically within the natural floodplain that receive protection by the State and Federal flood control facilities, in the event of failure of such facilities causing potential life threatening danger. Anticipated flood depths vary greatly and in some areas may fully inundate single or two story structures. Homes that are proposed to have a Flood Evacuation Location are also proposed to be structurally stable during the flood event, to support the Flood Evacuation Location until persons can be safely rescued.

DWR initially proposed the building standards for new construction and some existing buildings within the Educational, Residential, and Institutional occupancy groups (E, R, and I, respectively). Specifically, DWR proposed mandatory compliance of these proposed Building Standards Code update for occupancy groups E, R-3, and R-3.1, and a voluntary compliance for group R-1, R-2, R-4, and I occupancies. Subsequent to DWR's initial proposal, as described above, the CBSC's Code Advisory Committee (CAC) that reviewed DWR's proposal offered recommendations to improve the proposal. *DWR has elected to concur with the CAC's recommendations.* For the E occupancy group, the CAC advised that the initial proposal be moved to "further study" and resubmitted the next Code cycle. For the single family residential (SFR) proposals effecting occupancy groups R-3 and R-3.1, the CAC advised that after incorporating recent review comments that it be resubmitted for this Code cycle to be placed in the Code's voluntary appendices. As the CBSC is electing to create a new California Residential Code (CRC) during this Code cycle, DWR proposes changes to the SFR structures would be reflected in the CRC in addition to the Building Standards Code. Application of the proposed codes to existing buildings vary by occupancy group and generally would be triggered by change of use or by substantial improvement and reconstruction of substantially damaged buildings as defined in the existing code, CCR, Part 2, Section 1612.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The proposed action would primarily improve public safety under deep flooding conditions (e.g., depths 3-foot and greater) in the Central Valley from two key flood threats: (1) entrapment and/or drowning due to the lack of a safe evacuation route or an evacuation location, and (2) serious injury or death caused by structural failure due to unbalanced hydrostatic pressures,

caused by flood conditions, inside and outside of the building. This proposed regulation is consistent with the many programs and projects under the California Flood SAFE initiative, implemented by the Department of Water Resources.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

DWR has determined that there are no other matters prescribed by statute applicable to the Department of Water Resources, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Department of Water Resources has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. The proposed regulations are elective in nature.

ESTIMATE OF COST OR SAVINGS

(An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district. Provide a copy of the "Economic and Fiscal Impact Statement" (Form 399))

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

The CBSC contact person designated below will make DWR's initial determination of the estimate of cost or savings available upon request.

Cost impact on Representative Businesses

DWR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed regulatory action.

Cost Impact on Representative Private Persons

As the proposed code changes are elective in nature, there are no costs to private persons arising from DWR's flood related proposed regulations. However, if

a Central Valley community elects to adopt the flood related regulations proposed by DWR for R-3 and R-3.1 occupancy groups, DWR has calculated costs that may reasonably occur as a result of compliance with this proposed regulatory action. These costs were developed for multiple scenarios depending on home size and depth of flooding. One-time (initial) compliance costs for a new home buyer in the Central Valley floodplain may be up to approximately \$12,000 when flooding is anticipated to be severe (e.g., greater than 19-foot deep) but perhaps as little as \$1,900 for a Flood Evacuation Location in a new home, which is less than 2% of total typical home cost.

Initial Determination of Significant Effect on Housing Costs

DWR has made an initial determination that this proposed regulatory action would not have a significant effect on housing costs as the proposed code changes are elective. Additionally, for the few communities that elect to adopt the regulations, the anticipated compliance cost is less than 2% of total typical home costs. The CBSC contact designated below will make the DWR evaluation of the effect of the proposed regulatory action on housing costs available upon request.

Mandate on Local Agencies or School Districts

DWR has determined that this proposed regulatory action would not impose a mandate on local agencies and/or school districts. DWR is not currently proposing code modifications that affect Central Valley school districts or mandate code changes in any building occupancy groups.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Department of Water Resources has made an initial determination that this proposed regulatory action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The Department of Water Resources affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code Section 18928.

Therefore, the DWR's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

The CBSC contact person designated below will make DWR's initial determination of the estimate of cost or savings available upon request.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

The Department of Water Resources has made an assessment of the proposed code changes and has determined that these changes do not require a report.

CONSIDERATION OF ALTERNATIVES

The Department of Water Resources must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Mr. Tom Morrison (tom.morrison@dgs.ca.gov)
or

Ms. Jane Taylor (jane.taylor@dgs.ca.gov)

**2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833**

**Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959**

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Ms. Maria Lorenzo-Lee, P.E.
California Department of Water Resources,
Floodplain Management Branch
916-574-1409
mlorenzo@water.ca.gov
Fax: 916-574-1480

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED CHANGES
TO
BUILDING STANDARDS
OF THE
CALIFORNIA BUILDING STANDARDS
COMMISSION (CBSC)**

**REGARDING THE PROPOSED CHANGES TO
ADMINISTRATIVE CODE CALIFORNIA
CODE OF REGULATIONS, TITLE 24, PART 1**

**AMEND ARTICLE 1-7 IN CHAPTER 1
OF PART 1**

Notice is hereby given that the California Building Standards Commission (CBSC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. CBSC is proposing building standards related to an addition to Article 1-10 in Chapter 1 for the administrative regulations of CBSC.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009 until 5:00 p.m. on November 16, 2009.

Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted in Health and Safety Code 18930.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code 18930.5 grants CBSC the authority, if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

Summary of Existing Regulations

Chapter 1 of Part 1 contains the administrative regulations of CBSC in ten articles, describing duties and procedures to be followed in implementation of California Building Standards Law. The standards are intended to ensure the public's participation in the regulatory process for building standards and establish various Code Advisory Committees to advise the commission with regard to the action to be taken on proposed building standards.

Summary of Effect

The proposed action will amend Article 1-10 to implement and interpret the provisions of H&SC

§§18930.5, and provide clarity to the public regarding the public process by which CBSC will adopt green building standards.

Comparable Federal Statute or Reputations

CBSC is not aware of comparable federal statute or regulation.

Policy Statement Overview

The proposed regulation will amend Article 1–10 to implement and interpret the provisions of H&SC §§18930.5.

OTHER MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO ANY
SPECIFIC REGULATION OR CLASS
OF REGULATIONS

CBSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

The CBSC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **None**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

The CBSC has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

CBSC has made an initial determination that the adoption/amendment/repeal of this regulation will not

have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

CBSC has made an assessment of the proposed code changes and has determined that these changes do not require a report.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

CBSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

CBSC has assessed whether or not and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.

These regulations will not effect the creation of or elimination of jobs within the State of California.

- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not effect the creation of or elimination of new businesses within the State of California.

- ☐ The expansion of businesses currently doing business with the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS

CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

CBSC must determine that no reasonable alternative considered by the state agency or that has otherwise

been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

www.bsc.ca.gov

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

Jane Taylor, jane.taylor@dgs.ca.gov
Michael Nearman,
michael.nearman@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Jane Taylor, jane.taylor@dgs.ca.gov
Tom Morrison, tom.morrison@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED CHANGES
TO
BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING
AND DEVELOPMENT**

**REGARDING ADOPTION OF AMENDMENTS
TO THE 2010 CALIFORNIA BUILDING
STANDARDS CODE, TITLE 24, CALIFORNIA
CODE OF REGULATIONS (CCR), PARTS 2, 3,
4, 5 and 6 in TITLE 24, CCR, PART 11,
CALIFORNIA GREEN BUILDING
STANDARDS CODE**

HEALTH FACILITIES CONSTRUCTION

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Office of Statewide Health Planning and Development (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. The OSHPD is proposing building standards related to health facilities construction.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009, until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that

are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Section 1275, 129790, 129850. The OSHPD is proposing this regulatory action based on Health and Safety Code Section 129850 and Government 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 1226 authorizes the Office to prescribe, in consultation with the Community Clinics Advisory Committee, minimum building standards for the physical plant of clinics, for adoption in the California Building Standards Code.

Health and Safety Code, Section 1275 authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code, Section 129790 authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Department of Corrections, Board of Corrections and Department of Youth Authority.

Health and Safety Code, Section 129850 authorizes OSHPD to propose building standards, as necessary to effectively carry out the provisions of the Alfred E. Alquist Hospital Facilities Seismic Safety Act.

Government Code, Section 11152.5 authorizes a state department to adopt regulations pursuant to the Government Code. Regulations which are building standards must be adopted pursuant to State Building Standards Law of the Health and Safety Code (commencing with Section 18901).

Summary of Existing Regulations

The 2008 edition of the California Green Building Code (CGBC), Title 24, Part 11 is the first edition of this new code which will become effective August 1, 2009. The CGBC contains optional green building measures that may be applied to hospitals and skilled nursing facilities.

Summary of Effect

OSHPD proposes to adopt the 2010 California Code of Regulations, Title 24, Part 11 and carry forward existing optional measures that are applicable to hospital and skilled nursing facilities. OSHPD is also proposing to adopt specific standards from the 2008 Building Energy Efficiency Standards for Residential and Nonresidential Buildings, California Energy Commission, December 2008, CEC-400-2008-001-CMF for incorporation into the 2010 CGBC. Currently, hospitals and skilled nursing facilities are not required to meet energy efficiency requirements of Title 24, Part 6, California Energy Code. The proposed energy efficiency standards would be voluntary measures that would be applicable to these health facilities.

Adoption of these optional green building measures will help establish California as a leader in the efforts to reduce green house gas emissions and will assist in the efforts to meet the Governor's green house emissions reduction targets established in Executive Order 8-03-05.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations that address the requirements of this proposal.

Policy Statement Overview

OSHPD proposes to adopt optional building standards for the design and construction of hospitals and skilled nursing facilities.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OSHPD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

A. Cost or Savings to any state agency: **No**

- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No**
- E. Cost or savings in federal funding to the state: **No**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact. The proposed regulations are technical and editorial amendments that will provide clarification and consistency with nationally recognized standards and statute.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

A report pursuant to Government Code § 11346.3(c) is not required by the proposed regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The OSHPD has assessed whether or not and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.

- The proposed action would have no effect on the creation or elimination of jobs within the State of California.
- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.
 - The proposed action would have no effect on the creation of new businesses or elimination of existing businesses within the State of California.
- ☐ The expansion of businesses currently doing business with the State of California.
 - The proposed action would have no effect on the expansion of businesses currently doing business with the State of California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

OSHPD has made a determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

OSHPD must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, tom.morrison@dgs.ca.gov
Jane Taylor, jane.taylor@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Duane F. Borba, Acting Deputy Division Chief
Office of Statewide Health Planning and
Development
Facilities Development Division
400 R Street, Suite 200
Sacramento, CA 95811

regsunit@oshpd.ca.gov
(916) 440-8300
FAX (916) 324-9188

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS
OF THE
CALIFORNIA BUILDING STANDARDS
COMMISSION (CBSC)**

**REGARDING THE ADOPTION OF THE 2009
INTERNATIONAL BUILDING CODE (IBC)
FOR USE AS THE 2010 CALIFORNIA
BUILDING CODE (CBC),
TITLE 24. PART 2, CALIFORNIA CODE OF
REGULATIONS (CCR)**

Notice is hereby given that the California Building Standards Commission (CBSC) proposes to repeal the 2006 International Building Code published by the International Code Council and adopt as the new model building code the 2009 International Building Code (IBC) published by the International Code Council as the California Building Code, Part 2 of the California Code of Regulations (CCR), Title 24.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: David Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

**POST-PUBLIC COMMENT PERIOD
MODIFICATIONS TO THE TEXT OF
THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are non-substantive or sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, CBSC will explain the modifications in its Final Statement of Reasons to be considered by the commission during the meeting at which the commission adopts, amends, or repeals the regulation(s). CBSC will accept public comments at the meeting.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority of Health and Safety Code (H & SC) §§18934.5 and 18942(b) and Government Code (GC) §14617. The purpose of these building standards is to implement, interpret, and make specific the provisions of H & SC §§18928, 18928.1, 18934.5 and 18938.

INFORMATIVE DIGEST

Summary of Existing Laws

H & SC §16600. Building seismic retrofit guidelines for state buildings; seismic retrofit building standards

Authorizes CBSC and the Division of the State Architect to develop building seismic retrofit guidelines for existing state buildings.

H & SC §16601. Approval of guidelines and standards; administrative actions

Provides that CBSC shall approve the standards and take administrative actions to make them applicable to all state buildings, including those owned by the University of California or the California State University.

H & SC §16603. Applicability of chapter to University of California

Allows that provisions of this chapter only apply to the University of California if so resolved by the Regents of the university.

H & SC §16604. Legislative intent

Provides funding to carry out the provisions of this chapter.

H & SC §18928. Model code, national standard, or specification; adoption of and reference to the most recent addition; date of publication; committee

Authorizes the commission to adopt the most recent edition of the International Building Code, and requires that state agencies propose the adoption within one year of publication of a model code.

H & SC §18928.1. Building Standards; incorporation of model codes, applicable national specifications or published standards; publication agreement

Sets forth that the commission shall incorporate text of the model code only by reference, unless otherwise established in a publication agreement between the commission and the model code organization.

H & SC §18934.5. Standards for state buildings; adoption, approval, codification and publication

Authorizes CBSC to adopt and publish building standards applicable to state buildings, including state university buildings and, to the extent permitted by law, University of California buildings.

H & SC §18938. Filing and codification; publication; effective date; emergency standards; application of section

Sets forth that model codes as referenced in the California Building Standards Code shall apply to occupancies throughout the state and shall become effective 180 days after publication.

H & SC §18942(b). Publication, supplements; emergency standards; availability and possession of code

Mandates that CBSC publish statutory safety requirements for the construction of private swimming pools.

GC §14617. Lighting for college campus parking lots and walkways; standards; adoption of regulations

Mandates that CBSC adopt and publish regulations for lighting for parking lots and primary campus walkways at the University of California, California State University, and California Community Colleges.

Summary of Existing Regulations

The existing 2007 California Building Code is Part 2 of CCR, Title 24 and incorporates, by adoption by CBSC, the 2006 International Building Code of the International Code Council. This code provides minimum building standards to safeguard public welfare for local jurisdictions within the state of California and for state owned buildings and buildings constructed by the University of California and California State Universities. It contains references to other codes, such as the fire code, mechanical code, and plumbing code that are adopted for use in California.

Summary of Effect

CBSC is mandated to adopt the most current editions of the model codes. This proposed action by CBSC will make effective the 2009 IBC for occupancies pursuant to H & SC §18934.5, 180 days after publication of the next triennial edition of the California Building Code. This proposed action will also:

- Repeal the 2006 IBC and adopt the 2009 IBC;
- Relocate from the 2007 CBC, and proposed administrative and scoping provisions for occupancies under the authority of state agencies in California;
- Relocate from the 2007 CBC provisions for campus lighting and private swimming pools which are not addressed by the IBC;
- Correlate references to model codes that California does not adopt with those that California proposes for adoption.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to the proposed action by CBSC.

Policy Statement Overview

The proposed adoption of the 2009 IBC makes applicable to state-owned building projects and projects permitted by local agencies the most current edition of the IBC by reference through CCR, Title 24, Part 2. It defines administrative regulations for state agencies, and makes available by adoption by local jurisdictions the administrative provisions. It carries forward CBSC campus lighting and private swimming pool provisions which are not addressed in the IBC. It correlates model code references within the 2009 IBC, which will eliminate conflict and provide internal consistency among model codes adopted by reference in CCR Title 24.

OTHER MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO ANY
SPECIFIC REGULATION OR CLASS
OF REGULATIONS

CBSC has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

CBSC has determined that the proposed regulatory action would impose a mandate on local agencies or school districts. However, the mandate does not require reimbursement pursuant to Part 7 (commencing with §17500) of Division 4, Government Code. H & SC §18928 requires CBSC to adopt the most current edition of the model codes.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **None**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**

Estimate: **None**

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

CBSC has made an initial determination that the adoption of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

CBSC has determined there was no record of facts, evidence, documents, testimony, or other evidence that the agency relied upon to support its initial determination of no effect.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

CBSC has determined that no report is required for this regulation.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

CBSC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

CBSC has assessed whether or not and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.

This regulation will not affect the creation or elimination of jobs within the State of California.

- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.

This regulation will not affect the creation or elimination of existing businesses within the State of California.

- ☐ The expansion of businesses currently doing business with the State of California.

This regulation will not affect the expansion of businesses currently doing business within the State of California.

INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS

CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

CBSC must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as ef-

fective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

Thomas Morrison, Deputy Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959
Tom.Morrison@dgs.ca.gov

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Jane G. Taylor, Senior Architect
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959
Jane.Taylor@dgs.ca.gov

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED CHANGES
TO
BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT —
STRUCTURAL SAFETY (DSA-SS)**

**REGARDING ADOPTION OF AMENDMENTS
TO THE 2010 CALIFORNIA BUILDING
STANDARDS CODE
GREEN BUILDING STANDARDS CODE
FOR USE IN THE CALIFORNIA CODE OF
REGULATIONS, TITLE 24, PART 11**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division of the State Architect — Structural Safety (DSA-SS) proposes to adopt amendments to the 2010 California Building Standards and adopt, approve, codify, and publish green building standards contained in the California Code of Regulations (CCR), Title 24, Part 11.

Building standards proposed by DSA-SS for adoption into Part 11 would be applicable to public elementary and secondary schools, and community colleges.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009, until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: E. David Walls, Executive Director

Written comments may also be faxed to (916) 263-0959, or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and

notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modification.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards on behalf of DSA-SS under the authority granted by Health and Safety Code Section 18928. The purpose of these building standards is to implement, interpret, and make specific the provisions of Education Code Sections 17280-17317 and 81130-81147.

The Division of the State Architect is proposing this regulatory action based on Education Code Sections 17310 and 81147.

INFORMATIVE DIGEST

Summary of Existing Laws:

Sections 17310 and 81142 of the Education Code authorize the State Architect to establish building standards for the design, construction and inspection of public elementary and secondary schools, and community colleges.

Summary of Existing Regulations:

At the direction of the Building Standards Commission, Part 11 of Title 24, which is currently vacant, will contain California's green building standards. These standards will be coordinated with, and may reference existing laws and regulations (e.g. Title 24, Part 6 energy efficiency standards) pertaining to resource and energy conservation and environmental quality.

Summary of Existing Regulations

California Code of Regulations (CCR), Title 24, also referred to as the 2007 California Building Standards Code incorporates the following:

- Part 5, the California Plumbing Code, with Appendix G graywater irrigation standards authored by Department of Water Resources
- Part 6, the California Energy Code, which contains minimum energy efficiency standards for non-residential buildings in California promulgated by the California Energy Commission (CEC)

- Part 11, the California Green Building Standards Code (CGBSC), which contains mandatory and voluntary green building standards for residential, nonresidential, and medical facilities.

Other relevant CCR titles:

- Title 17 includes regulations for air quality promulgated by the California Air Resources Board
- Title 20, Article 4, Appliance Efficiency regulations, contains CEC standards for water consumption of widely used plumbing fixtures.
- Title 23 includes the Model Water Efficient Landscape Ordinance recently updated by Department of Water Resources.

Summary of Governor's Executive Orders

S-20-04, December 14, 2004, instructs state entities to design, construct, and operate all new and renovated state-owned facilities paid for with state funds as "LEED Silver" or higher certified buildings.

S-3-05, June 1, 2005, establishes targets for limiting GHG emissions to 2000 levels by 2010, to 1990 levels by 2020, and to 80% of 1990 levels by 2050. It directs the Secretary of the Environmental Protection Agency (EPA) to coordinate this effort with the Secretary of the Business, Transportation and Housing Agency, Secretary of the Department of Food and Agriculture, Secretary of the Resources Agency, Chairperson of the Air Resources Board, Chairperson of the Energy Commission, and the President of the Public Utilities Commission. These agencies formed a Climate Action Team (CAT) to report to the governor by January, 2006 and periodically thereafter on strategies and progress in meeting the goals.

S-20-06, October 17, 2006, directs EPA to continue coordinating reduction of GHG emissions and development of market-based strategies for achievement, mandated by AB 32.

Summary of Effect

This proposed action will make effective mandatory and voluntary green building standards available in Title 24, Part 11 for buildings under authority of CBSC, on a date commensurate with the 2010 annual code adoption cycle, either 180 days after publication in Title 24 or at a later date to be determined by CBSC.

Comparable Federal Statute or Regulations

The Environmental Protection Agency (EPA) defines "Brownfield Development", an option proposed for site planning and design. EPA also regulates ozone-depleting and climate warming chemicals, as well as other air pollutants like wood smoke in updates to the 1970 Clean Air Act. The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., also known as the Clean Water Act) is adopted in California by the State

Water Resources Control Board for management of storm water during construction.

Policy Statement Overview

The standards in the 2008 CGBSC were developed with assistance of a green building focus group made up of state agencies, building officials, industry representatives, model code publishers, and environmental organizations, drawing upon existing points-based green building programs (including LEED, the Collaborative for High Performance Schools, and Green Globes), best practices, guidelines, state agency laws and regulations, draft national standards, and other published material. Working with the focus group in the first half of 2009, CBSC is proposing updated mandatory and voluntary standards for site planning and design, energy efficiency, water conservation, material conservation, and environmental quality, incorporating public comments received in the last code cycle as well as during the 2009 code development process.

**OTHER MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO ANY
SPECIFIC REGULATION OR CLASS
OF REGULATIONS**

DSA-SS has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

**MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

DSA-SS has determined that projects following the Green Building Code guidelines would impose a mandate on local agencies in the form of verification. However, the mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code. No mandate is imposed on school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or savings to any state agency: **None**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**

Estimate: **None**

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

DSA-SS has made an initial determination that the adoption of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. The costs of the mandatory measures proposed are summarized in the Initial Statement of Reasons and in the Economic and Fiscal Impact Statement prepared by the agency, and are not considered significant when weighed against the benefits.

DECLARATION OF EVIDENCE

DSA-SS's initial determination of no significant, statewide adverse economic impact directly affecting businesses in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action over and above the Initial Statement of Reasons and the Economic and Fiscal Impact Statement which are part of this rulemaking.

**FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE**

DSA-SS has made an assessment of the proposed code changes and has determined that these changes do not require a report.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

DSA-SS is aware of initial cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action. However, it is also anticipated that such costs would be recouped in long-range savings expressed in utility and transportation costs, worker productivity, health costs, and goodwill. The Initial Statement of Reasons and the Economic and Fiscal Impact Statement support this statement.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

DSA-SS has assessed whether or not and to what extent this proposal will affect the following:

- **The creation or elimination of jobs within the State of California.** These regulations, employing emerging green building technologies, products, and services, should create jobs within the State of California.

- **The creation of new businesses or the elimination of existing businesses within the State of California.** These regulations, employing emerging green building technologies, products, and services should create new business and should expand opportunities for existing business within the State of California.
- **The expansion of businesses currently doing business with the State of California.** These regulations will position California in the lead for statewide green building guidelines, and should provide opportunities for businesses currently doing business within the State of California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The DSA–SS has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The DSA–SS must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the persons named below.

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below.

CBSC CONTACT PERSONS

General questions regarding procedural and administrative issues should be addressed to:

Tom Morrison, Deputy Executive Director
Tom.Morrison@dgs.ca.gov
 or

Jane Taylor, Senior Architect
jane.taylor@dgs.ca.gov

2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263–0916
Facsimile No.: (916) 263–0959

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Richard Conrad
Ph. (916) 324–7180
richard.conrad@dgs.ca.gov

Theresa Townsend
Ph. (916) 445–1304
theresa.townsend@dgs.ca.gov

Division of the State Architect
1102 Q Street, Suite 5100
Sacramento, CA 95814
DSA Facsimile No.: (916) 327–3371

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT REGARDING THE ADOPTION OF THE 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE (CGBSC) CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11 (HCD 5/09)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11.

This rulemaking action covers the adoption of green building standards.

INFORMATIVE DIGEST

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from **October 2, 2009**, until **5:00 p.m. on November 16, 2009**. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director

Written comments may also be faxed to (916) 263-0959 or e-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). The CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written and/or oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5. HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17921, 17922, 18300, 18865 and 19990; and Government Code Sections 12955.1 and 12955.1.1. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 17000-17060, 17910-17990, 18620, 18630, 18640, 18670, 18690, 18691, 18873-18873.5 and 19960-19997.

Summary of Existing Laws

Section 17921 of the Health and Safety Code requires HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

Section 17922 of the Health and Safety Code requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

Health and Safety Code Section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

Health and Safety Code Section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

The California Green Building Standards Code, Part 11 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, is a new code published for the first time in 2008.

The California Green Building Standards Code (CGBSC) references existing codes, such as the California Building Code, California Electrical Code, California Energy Code, California Fire Code, California Mechanical Code, California Plumbing Code and California Code of Regulations, Title 19, Division 1, in addition to including standards designed to address unique California conditions.

Summary of Effect

HCD proposes to adopt the 2010 edition of the California Green Building Standards Code (CGBSC), as indicated on the proposed Matrix Adoption Table, into CCR, Title 24, Part 11 for the following programs:

- a) State Housing Law: relative to residential occupancies, buildings or structures accessory thereto.
- b) Employee Housing Act: relative to the occupancy of any buildings or structures on the property in accordance with Health and Safety Code Section 17040.

- c) **Factory-Built Housing Law:** relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and address unique California conditions. In addition, the regulations provide clarity and specificity, and give direction for the code user.

A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

Comparable Federal Statute or Regulations

None.

Policy Statement Overview

The purpose of the adoption of the California Green Building Standards Code is to improve public health, safety and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in the following categories: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental air quality.

The proposed regulations will adopt building standards which will affect the following: residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; and the use of General Design, Structural, and Fire and Life Safety Requirements in housing construction, buildings and structures accessory thereto.

OTHER MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO ANY
SPECIFIC REGULATION OR CLASS
OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. Therefore, it does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: Health and Safety Code Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards by the California Building Standards Commission (CBSC). At the direction

of the Governor, HCD collaborated with the CBSC and other state agencies to develop green building standards. This action will result in a minimal cost to HCD which will be absorbed in the current budget.

- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
- D. Other nondiscretionary cost or savings imposed on local agencies: NONE.
- E. Cost or savings in federal funding to the state: NONE.

Estimate: HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES

HCD has made an initial determination that the proposed action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. (See *Economic Impact of the Proposed California Green Building Standards Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

DECLARATION OF EVIDENCE

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH, SAFETY, OR WELFARE

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS EFFECT

HCD has initially determined that a small business may be affected by these proposed regulations. (See *Economic Impact of the Proposed California Green Building Standards Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

HCD has initially assessed whether or not, and to what extent, this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

- The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will not affect the creation or the elimination of businesses within the State of California.

- The expansion of businesses currently doing business within the State of California.

These regulations will not affect the expansion of businesses currently doing business within the State of California.

(See *Economic Impact of the Proposed California Green Building Standards Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See *Economic Impact of the Proposed California Green Building Standards Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternative considered by HCD, or otherwise identified and brought to the attention of HCD, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. (See *Economic Impact of the Proposed California Green Building Standards Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This Notice, the Express Terms and the Initial Statement of Reasons can be accessed from the California Building Standards Commission website at <http://www.bsc.ca.gov> and also will be posted on HCD's website at <http://www.hcd.ca.gov/codes/shl/2010codeadoptproj.html>.

Interested parties may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

CBSC Contact: Tom Morrison
(tom.morrison@dgs.ca.gov)

CBSC Back-up: If the contact person is unavailable, please contact Jane Taylor (jane.taylor@dgs.ca.gov) at the phone number or fax number provided below.

CBSC Address: California Building Standards Commission
2525 Natomas Park Drive,
Suite 130
Sacramento, CA 95833

CBSC Telephone: (916) 263-0916

CBSC Fax: (916) 263-0959

CBSC E-mail: CBSC@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Doug Hensel
Assistant Deputy Director
Division of Codes and Standards
Department of Housing and Community
Development
E-mail: dhensel@hcd.ca.gov
Telephone: (916) 445-9471
Fax: (916) 327-4712

Back-up:

Shawn Huff
Housing Standards Programs Manager
Division of Codes and Standards
Department of Housing and Community
Development
E-mail: shuff@hcd.ca.gov
Telephone: (916) 445-9471
Fax: (916) 327-4712

**TITLE 24. BUILDING STANDARDS
COMMISSION**

**NOTICE OF PROPOSED CHANGES
TO
BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING
AND DEVELOPMENT**

**REGARDING THE CALIFORNIA
ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1**

**Health Facilities Construction & Hospital
Inspector Certification**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Office of Statewide Health Planning and Development (OSHDP) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1, Chapter 7. The OSHPD is proposing building standards related to administrative regulations for health facilities construction and hospital inspector certification.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009, until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE
TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 1226, 1275 & 129790. The OSHPD is proposing this regulatory action based on Health and Safety Code Sections 1226, 1275, 129790 & 129850.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 1226 authorizes the Office to prescribe, in consultation with the Communi-

ty Clinics Advisory Committee, minimum building standards for the physical plant of clinics, for adoption in the California Building Standards Code.

Health and Safety Code Section 1275 authorizes the Office to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code Section 129790 authorizes the Office to propose building standards for correctional treatment centers in cooperation with the Department of Corrections, Board of Corrections and Department of Youth Authority.

Health and Safety Code Section 129850 authorizes the Office to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. The Office is also authorized to submit to the California Building Standards Commission for approval and adoption of building standards related to the seismic safety of hospital buildings.

Summary of Existing Regulations

Title 24, Part 1, Chapter 7 contains administrative regulations pertaining to plan review and construction of health facilities regulated by OSHPD, which includes hospitals, skilled nursing and intermediate-care facilities, licensed clinics, and correctional treatment centers. Existing administrative regulations include requirements regarding the submittal of plans and specifications for review and approval, submittal of construction documents, construction, inspection and certification and approval of hospital inspectors.

Summary of Effect

The proposed changes are intended to implement statutory requirements, clarify existing regulations, eliminate outdated regulations, reflect current practices, and coordinate with other parts of Title 24. The amendments will provide the following:

- Implement statute by specifying requirements for presubmittal meetings between OSHPD and the facility's design professional for projects \$20 million or more in estimated construction cost.
- Implement statute by specifying requirements regarding deferring payment of plan review fees for disaster-related repair projects.
- Eliminate outdated language regarding submittal of preliminary plans and outline specifications.
- Coordinate Title 24, Part 1 provisions with Title 24, Part 2 regarding final review of construction documents and incremental design, bidding and construction to eliminate redundancy between the codes.

- Provide clarification of provisions regarding time limitations for submittal of projects for phased or incremental review; use of design/build delivery method for a project; approval of an Inspector of Record; and the Hospital Inspector certification/recertification process.

Comparable Federal Statute or Regulations

There are no comparable Federal statutes or regulations related to this proposed action.

Policy Statement Overview

Title 24, Part 1, Chapter 7, contains administrative regulations for the plan review and construction of health facilities regulated by OSHPD. The proposed changes are intended to clarify existing regulations, to implement statutory requirements, to repeal outdated regulations, reflect current practices, and to coordinate California amendments with model code language.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters to be identified.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The OSHPD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **No**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No**
- E. Cost or savings in federal funding to the state: **No**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic im-

pact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact. The proposed regulations are technical and editorial amendments that will provide clarification, consistency within the code and nationally recognized standards and implement statutes.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

A report pursuant to Government Code § 11346.3(c) is not required by the proposed regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The OSHPD has assessed whether or not and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.

The proposed action would not have an effect on the creation or elimination of jobs within the State of California.

- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.

The proposed action would not have an effect on the creation of new businesses or elimination of existing businesses within the State of California.

- ☐ The expansion of businesses currently doing business with the State of California.

The proposed action would not have an effect on the expansion of businesses currently doing business with the State of California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The OSHPD has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The OSHPD must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

**Tom Morrison, tom.morrison@dgs.ca.gov
Jane Taylor, jane.taylor@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833**

**Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959**

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Duane F. Borba, Acting Deputy Division Chief
Office of Statewide Health Planning and
Development
Facilities Development Division
400 R Street, Suite 200
Sacramento, CA 95811

regsunit@oshpd.state.ca.us
(916) 440-8300
FAX (916) 324-9188

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED CHANGES TO BUILDING STANDARDS OF THE OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING PROPOSED CHANGES TO THE CALIFORNIA ADMINISTRATIVE CODE AND CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PARTS 1 & 2

Health Facilities Construction

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Office of Statewide Health Planning and Development (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Parts 1 and 2. The OSHPD is proposing building standards related to the adoption of the 2010 California Administrative Code and the adoption of the 2009 International Building Code for incorporation into the 2010 California Building Code.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from October 2, 2009 until 5:00 p.m. on November 16, 2009. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code 18949.3. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Section 129850. The OSHPD is proposing this regulatory action based on Health and Safety Code Sections 1226, 1275, 18928, 18929, 129790 and 129850 and Government Code Section 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 1226 authorizes the Office to prescribe, in consultation with the Community Clinics Advisory Committee, minimum building standards for the physical plant of clinics, for adoption in the California Building Standards Code.

Health and Safety Code Section 1275 authorizes the Office to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code Section 18928 authorizes state agencies to adopt the most recent edition of model code, as amended or proposed to be amended by the

agency, within one year of the publication date of that model code.

Health and Safety Code Section 18929 mandates that building standards or administrative regulations that directly apply to the implementation or enforcement of building standards must be submitted by the adopting agency to the California Building Standards Commission for the Commission's approval and must be adopted pursuant to Health and Safety Code Section 18930 and the Government Code (commencing with Section 11346).

Health and Safety Code Section 129790 authorizes the Office to propose building standards for correctional treatment centers in cooperation with the Department of Corrections, Board of Corrections and Department of Youth Authority.

Health and Safety Code Section 129850 authorizes the Office to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. The Office is also authorized to submit to the California Building Standards Commission for approval and adoption of building standards related to the seismic safety of hospital buildings.

Government Code Section 11152.5 authorizes a state department to adopt regulations pursuant to the Government Code. Regulations which are building standards must be adopted pursuant to State Building Standards Law of the Health and Safety Code (commencing with 18901).

Summary of Existing Regulations

OSHDP currently enforces the California Code of Regulations, Title 24, Part 1, 2007 California Administrative Code (CAC) and Part 2, 2007 California Building Code (CBC), which is based on the 2006 International Building Code with California amendments. OSHDP enforces requirements related to the construction of hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. Requirements governing the structural design and construction of OSHDP-regulated health facilities are currently found in Volume 2 of the 2007 CBC.

Summary of Effect

The purpose of this proposed action is to: 1) make minor technical amendments to Title 24, Part 1, and 2) adopt the 2009 International Building Code (IBC), by reference, into the Title 24, Part 2, 2010 CBC, carry forward existing California amendments related to the structural design of health facilities and propose new amendments. The proposed amendments will:

Part 1

Make minor technical amendments for consistency with 2010 Part 2, CBC.

Part 2, Volume 1

Repeal redundant requirements in Chapter 14 regarding exterior walls and Chapter 15 regarding roof systems.

Part 2, Volume 2

Technical amendments to the requirements in various sections of Chapters 16, 16A, 17, 17A, 18, 18A, 19, 19A, 21A, 22A, 23, 24, 25, 34, 34A, 35 and Appendix J will repeal redundant, outdated or conflicting requirements, provide clarity and provide consistency within the code.

Comparable Federal Statutes or Regulations

These regulations do not duplicate or conflict with federal statutes or regulations.

Policy Statement Overview

The intent of this proposal is to amend the administrative regulations, as necessary, and to adopt the most recent model code requirements for health facility construction, pursuant to Health and Safety Code Section 18928. The OSHDP is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. Additionally, OSHDP is responsible for amending model code requirements for these health facilities, as necessary.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The OSHDP has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **No**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **No**
- E. Cost or savings in federal funding to the state: **No**

**INITIAL DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES**

The OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

The OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact. The scope of the proposed action is to make minor technical amendments to the administrative regulations and to adopt the most recent model code pursuant to statutory requirements and to carry forward existing California amendments from the 2007 California Building Code.

**FINDING OF NECESSITY FOR THE PUBLIC'S
HEALTH SAFETY, OR WELFARE**

A report pursuant to Government Code §11346.3(c) is not required by these proposed regulations.

**COST IMPACT ON REPRESENTATIVE PRIVATE
PERSON OR BUSINESS**

The OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS
UPON JOBS AND BUSINESS EXPANSION,
ELIMINATION OR CREATION**

The OSHPD has assessed whether or not and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.

These regulations will have no effect.

- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.

These regulations will have no effect.

- ☐ The expansion of businesses currently doing business with the State of California.

These regulations will have no effect.

**INITIAL DETERMINATION OF SIGNIFICANT
EFFECT ON HOUSING COSTS**

The OSHPD has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The OSHPD must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF
RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Tom Morrison, tom.morrison@dgs.ca.gov
Jane Taylor, jane.taylor@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833**

**Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959**

PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Duane F. Borba, Acting Deputy Division Chief
Office of Statewide Health Planning and
Development
Facilities Development Division
400 R Street, Suite 200
Sacramento, CA 95811

regsunit@oshpd.state.ca.us
(916) 440-8300
FAX (916) 324-9188

GENERAL PUBLIC INTEREST

CALIFORNIA ENERGY COMMISSION

NOTICE OF CORRECTION

The California Energy Commission published in the September 18, 2009 edition of the California Regulatory Notice Register (Register 2009, No. 38-Z, page 1584) a Notice of Proposed Action concerning the Proposed Amendments to Appliance Efficiency Regulations California Code of Regulations, Title 20.

On Page 2 of published NOPA was the Date for the first public hearing:

PUBLIC HEARINGS

FIRST HEARING

The Energy Commission's Energy Efficiency Committee (Committee) will hold a public hearing to receive public comments on the Express Terms:

"**THURSDAY, OCTOBER 13, 2009**" is a typographical error as to the day of public hearing to receive public comments on the Express Terms at the California Energy Commission. The correct day and date is "**TUESDAY, OCTOBER 13, 2009**".

Any inquiries regarding this correction should be made to Harinder Singh, Project Manager for television rulemaking with the California Energy Commission's Appliance Efficiency Program, 1516 Ninth Street, MS 25 Sacramento, CA 95814-5512, telephone: (916) 654-4091 or e-mail hsingh@energy.state.ca.us.

**TITLE 2. DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60

Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice

For Publication October 2, 2009

CESA CONSISTENCY DETERMINATION REQUEST FOR

Palermo-Colgate-Rio Oso 230 kV
Transmission Line Project
Butte, Sutter, and Yuba Counties
2080-2009-014-02

The Department of Fish and Game (Department) received a notice on September 22, 2009, that the Pacific Gas and Electric Company (PG&E) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The proposed project would modify existing 230 kV transmission line facilities — which consist of aluminum conductor line supported by steel lattice towers — between the Palermo Junction in Butte County, the Colgate Powerhouse in Yuba County, and the Rio Oso Substation in Sutter County (Project). The Project would raise 81 existing towers and install new conductor line capable of transmitting electrical current in high temperatures during peak demand with less expansion and sagging than the existing conductor.

Project activities will result in temporary impacts to approximately 13.939 acres of habitat suitable for giant garter snake (*Thamnophis Gigas*). The installation of guard structures at public roadways (to protect motorists in case the conductor sags) could cause such impacts as minor temporary modifications of habitat, disturbances associated with construction intrusion, and potential direct loss of individual snakes due to excavation or equipment/vehicle operation. The establishment and use of temporary pull sites for installing conductor line on the modified towers, both during the months when snakes are active and also during the months when the snakes are inactive, may also result in impacts to giant garter snake. The project may limit giant garter snake's ability to find and utilize suitable upland habitat for winter hibernation.

The U.S. Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion (81420-2008-F-1799-1)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers (Corps) on March 31, 2009, and an amendment on September 16, 2009, which considered the effects of the project on the Federally threatened and State threatened giant garter snake. Pursuant to California Fish and Game Code Section 2080.1, PG&E is requesting a determination that the BO and ITS, as amended, are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, PG&E will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game — Public Interest Notice

For Publication October 2

PROPOSED RESEARCH ON FULLY PROTECTED SPECIES

Monitoring of Lost River and Shortnose Suckers in
Clear Lake Reservoir

The Department of Fish and Game ("Department") received a research proposal from Mark Johnson of U.S. Geological Survey requesting authorization to conduct fishery surveys that involve the capturing, handling and PIT tagging of Lost River sucker (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostris*), Fully Protected Fishes, for research purposes, consistent with the protection and recovery of the species.

The applicant is required to have a Scientific Collecting Permit (SCP) to take protected species of fish. Permit conditions also require that the holder of a SCP obtain special authorization from the Department for research on Fully Protected Species. The applicant has the required Scientific Collecting Permit (SC-007663), a valid USFWS Federal Section 10 Permit (Permit Number: TE-007907-11), and has applied for a Memorandum of Understanding (MOU) to permit him to collect the Lost River sucker and shortnose sucker, Fully Protected Species.

The proposed research has been contracted by the U.S. Bureau of Reclamation in support of the ongoing study for the recovery of the endangered Lost River and shortnose suckers (suckers) in the Klamath Basin. The applicant proposes to utilize three boat crews consisting of two personnel to set twelve total trammel nets in the mid morning to early afternoon hours for the adult sucker sampling. An additional boat crew consisting of two employees will be utilized to set trap nets in the same

areas as the trammel nets to collect juvenile suckers for histological samples for a three day period during the adult sampling. The sampling will take place annually in the fall for three weeks. The adult suckers captured in trammel nets will be scanned for the presence of Passive Integrated Transponder (PIT) tags and if a tag is not present one will be inserted subcutaneously anterior to the pelvic girdle. The suckers will also be measured (fork length) to the nearest millimeter, checked for the presence of parasites, and any other afflictions. A maximum of 4,800 suckers will be sampled. The data will be use to collect information on length, frequency, sex ratio, relative abundance and distribution of suckers in Clear Lake Reservoir, Modoc County.

To improve detections of the previously tagged fish the proposal requests a remote antenna array installed on Willow Creek, a spawning tributary of Clear Lake, in the late winter or early spring to monitor spawning movements. The capture–recapture data will be used to provide estimates of annual mortality for sucker populations in Clear Lake. These parameter estimates will then be incorporated into a model using environmental covariates to determine to what extent various biological or environmental factors influence sucker population dynamics.

Pursuant to California Fish and Game Code (FGC) Section 5515(a)(1), the Department may authorize take of Fully Protected Fish after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5515 for take of Fully Protected Fish, it would issue the authorization on or after October 21, 2009 for an initial time of five years. Because the applicant’s federal permit expires on April 25, 2011 the validity of the MOU after April 25, 2011 is contingent upon successful renewal of the applicant’s federal permits.

Contact: Fisheries Branch, Nongame Native Fish Program, 830 S Street, Sacramento, CA 95811, Attn.: Glenn Yoshioka.

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH CARE SERVICES WILL REDUCE DISPROPORTIONATE SHARE HOSPITAL REPLACEMENT PAYMENTS TO PRIVATE HOSPITALS BY TEN PERCENT

This notice is to provide information of public interest with respect to a change to disproportionate share

hospital replacement payments to private hospitals made pursuant to Welfare and Institutions Code Section 14166.11.

The Health Trailer Bill of 2009, Chapter 5 (ABX4 5) added Welfare and Institutions Code Section 14166.115 which requires a 10% reduction in disproportionate share hospital replacement payments to private hospitals for Fiscal Year (FY) 2009–10. The reduction takes effect October 1, 2009, and will be applied to all disproportionate share hospital replacement payments to private hospitals made for FY 2009–10, including interim payments, tentative adjusted monthly payments, data corrected payments, and the final adjusted payment.

PUBLIC REVIEW AND COMMENTS

A detailed description of the California legislation that amended the Welfare and Institutions Code to make the changes described in this notice is available for public review at local county welfare offices throughout the State. A copy of the description may also be requested, in writing, from Ms. Jalyne Callori, Department of Health Care Services, Safety Net Financing Division, MS 4504, P.O. Box 997436, Sacramento, CA 95899–7436.

The Department of Health Care Services is also seeking comments on this reduction in disproportionate share hospital replacement payments to private hospitals. Written comments concerning this reduction may be mailed to Ms. Callori at the above address and must be received on or before November 16, 2009.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

California Environmental Protection Agency
Office of Environmental Health Hazard Assessment

Notice to Interested Parties
October 2, 2009

Notice of the Availability of Reports on Revised
California Human Health Screening Levels for
Lead and Beryllium

Health and Safety Code Section 57008 (The California Land Environmental Restoration and Reuse Act; SB32, Escutia, Chapter 764, Statutes of 2001) requires the California Environmental Protection Agency (Cal/EPA), “in cooperation with the Department of Toxic Substances Control, the State Water Resources Control Board, and the Office of Environmental Health Hazard Assessment,” to publish a list of screening numbers for specific contaminants. In January, 2005 the Office of Environmental Health Hazard Assessment (OEHA)

released a report containing California Human Health Screening Levels (CHHSLs) for 60 chemicals. OEHHA is making available two reports: "Revised California Human Health Screening Levels for Lead" and "Revised California Human Health Screening Levels for Beryllium." These reports update the CHHSLs previously released for lead and lead compounds, beryllium and beryllium compounds, beryllium oxide and beryllium sulfate.

The revised CHHSLs for lead and lead compounds are **80 mg/kg soil** for residential property and **320 mg/kg soil** for commercial/industrial property. The revised CHHSLs for beryllium and beryllium compounds and for beryllium oxide are **16 mg/kg soil** for residential property and **190 mg/kg soil** for commercial/industrial property. The revised CHHSLs for beryllium sulfate are **2.9 mg/kg soil** for residential property and **6.3 mg/kg soil** for commercial/industrial property.

Both reports are available on our web site at <http://www.oehha.ca.gov>. If you would like to receive further information on this announcement or have questions, please contact our office at (916) 324-2829 or the address below.

Mr. Leon Surgeon
Integrated Risk Assessment Branch
Office of Environmental Health Hazard Assessment
P.O. Box 4010
1001 I Street, MS-12B
Sacramento, California 95812-4010
FAX: (916) 322-9705
IRAB@oehha.ca.gov

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**California Environmental Protection Agency
Office of Environmental Health Hazard
Assessment Notice to Interested Parties**

October 2, 2009

**ANNOUNCEMENT OF EXTENSION
OF PUBLIC COMMENT PERIOD**

**Proposed Public Health Goal
for Hexavalent Chromium in Drinking Water**

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental

Protection Agency is hereby announcing a two-week extension of the public comment period on the draft technical support document for the proposed Public Health Goal (PHG) for hexavalent chromium in drinking water. The draft PHG document is currently posted on the OEHHA Web site (www.oehha.ca.gov) and OEHHA is soliciting comments on it from all interested parties. The Office has previously announced a public workshop to be held at 10 a.m. on October 19, 2009 in Room 1 of the Elihu Harris Building, 1515 Clay Street, Oakland. This workshop will be held as scheduled. OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for conducting the workshop and receiving public input.

With this extension, written comments must be received at the OEHHA address below by 5:00 p.m. on November 2, 2009 to be considered during this document revision period. The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996¹ requires OEHHA to develop PHGs based exclusively on public health considerations.² PHGs published by OEHHA are considered by the California Department of Public Health in setting drinking water standards (Maximum Contaminant Levels, or MCLs).³

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below.

Michael Baes (mbaes@oehha.ca.gov)
Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
1515 Clay St., 16th floor
Oakland, California 94612

Attn: PHG project.

¹ Codified at Health and Safety Code, section 116270 et seq.

² Health and Safety Code section 116365(c)

³ Health and Safety Code section 116365(a) and (b)

**OAL REGULATORY
DETERMINATION**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS**

**(Pursuant to Government Code Section
11340.5 and
Title 1, section 270, of the
California Code of Regulations)**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

**2009 OAL DETERMINATION NO. 21
(OAL FILE NO. CTU2009-0407-01)**

**REQUESTED BY: PHILIP CRAIGIE
CONCERNING: Memorandum Titled Exemption for Entertainment Appliances in Administrative Segregation Units**

**DETERMINATION ISSUED
PURSUANT TO GOVERNMENT CODE SECTION
11340.5.**

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the

challenged rule meets the definition of “regulation” as defined in Government Code section 11342.600¹ and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of “regulation,” but was not adopted pursuant to the APA and should have been, it is an “underground regulation” as defined in California Code of Regulations, title 1, section 250.² OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

CHALLENGED RULE

The challenged rule is a Memorandum titled “Exemption for Entertainment Appliances in Administrative Segregation Units” (Memorandum) signed by Marisela Montes, Deputy Director of the Division of Adult Institutions of the California Department of Corrections (CDCR) and Rehabilitation, dated December 15, 2008. The Memorandum is attached hereto as Exhibit A.

DETERMINATION

OAL determines that the Memorandum meets the definition of “regulation” that should have been adopted pursuant to the APA.

FACTUAL BACKGROUND

On December 15, 2008, the Deputy Director of the Division of Adult Institutions of CDCR issued a memorandum to Associate Directors and Wardens. The Memorandum is titled “Exemption for Entertainment Appliances in Administrative Segregation Units” and states:

Due to the current fiscal situation and the cost to retrofit housing units it has now been determined that the following institutions are permanently excluded from allowing the use of entertainment appliances in the Administrative Segregation Units:

¹ Unless otherwise specified, all references are to the Government Code.

² As defined by title 1, section 250(a), an “Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

CSP–Corcoran
Folsom State Prison
San Quentin State Prison
Calipatria State Prison
North Kern State Prison

Deuel Vocational Institution
California Medical Facility
Richard J. Donovan Correctional Facility
CSP–Los Angeles County
Centinela State Prison

A temporary exemption regarding the use of entertainment appliances in the Administrative Segregation Units will continue to apply for the following institutions. A review next fiscal year will be conducted to determine if it is fiscally feasible to provide funding to retrofit the housing units.

CSP–Solano
High Desert State Prison
Wasco State Prison

On April 7, 2009, Phillip Craigie (Petitioner) submitted a petition to OAL challenging the Memorandum as an underground regulation. The petition was accepted for consideration on May 8, 2009. The acceptance was published in the Notice Register on May 22, 2009, with a request for comments from the public. No comments from the public were received. CDCR did not submit a response to the petition.

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency issues, utilizes, enforces, or attempts to enforce a rule that meets the definition of “regulation” as defined in section 11342.600 and should have been adopted pursuant to the APA. An OAL determination

that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to “due deference” in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422 [268 Cal.Rptr. 244].

ANALYSIS

OAL’s authority to issue a determination extends only to the limited question of whether the challenged rule is a “regulation” subject to the APA. This analysis will determine (1) whether the challenged rule is a “regulation” within the meaning of section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in section 11342.600 as:

. . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186], the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, §11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency’s procedure (Gov. Code, §11342, subd. (g)).³

As stated in *Tidewater*, the first element used to identify a “regulation” is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations. The Memorandum states that ten listed institutions are permanently excluded from allowing the use of entertainment appliances in Administrative Segregation Unit housing. The Memorandum also states that three other institutions are temporarily excluded from allowing the use of entertainment appliances in Administrative Segregation Unit housing but that the temporary exclusion will be reviewed the following fiscal

³ Section 11342(g) was re-numbered in 2000 to section 11342.600 without substantive change.

year. The Memorandum, by its terms, applies to all inmates of these 13 institutions who are assigned to the Administrative Segregation Unit housing who also own entertainment appliances or who may wish to purchase entertainment appliances in the future. The Memorandum, therefore, applies to all inmates of the 13 listed prisons who are assigned to Administrative Segregation Unit housing. This group of persons is a “clearly defined class of persons.”

The first element of *Tidewater* is met.

The second element used to identify a “regulation” as stated in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency’s procedure. On July 1, 2005, the Department of Corrections was re-organized into the Department of Corrections and Rehabilitation.⁴ Penal Code section 5054 provides that:

Commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation.

Penal Code section 5058, subdivision (a), states:

The director may prescribe and amend rules and regulations for the administration of the prisons and for the administration of the parole of persons sentenced under Section 1170 except those persons who meet the criteria set forth in Section 2962. The rules and regulations shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this section and Sections 5058.1 to 5058.3, inclusive. All rules and regulations shall, to the extent practical, be stated in language that is easily understood by the general public.

Penal Code section 2601 discusses inmate rights:

. . . each person described in Section 2600 shall have the following civil rights:

⁴ Penal Code section 5055:

Commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the Department of Corrections and Rehabilitation, except where those powers and duties are expressly vested by law in the Board of Parole Hearings.

Whenever a power is granted to the secretary or a duty is imposed upon the secretary, the power may be exercised or the duty performed by a subordinate officer to the secretary or by a person authorized pursuant to law by the secretary.

(a) Except as provided in Section 2225⁵ of the Civil Code, to inherit, own, sell, or convey real or personal property, including all written and artistic material produced or created by the person during the period of imprisonment. However, to the extent authorized in Section 2600, the Department of Corrections may restrict or prohibit sales or conveyances that are made for business purposes.

....

Penal Code section 2600 states:

A person sentenced to imprisonment in a state prison may during that period of confinement be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests.

....

These Penal Code sections give CDCR broad powers to adopt regulations dealing with the care, custody, treatment, training, discipline and employment of inmates, including the inmates’ right to own personal property. The Memorandum directly affects the rights of the inmates assigned to the Administrative Segregation Unit in the 13 specified institutions to own entertainment appliances. The Memorandum interprets, implements and makes specific Penal Code sections 5058, 2600, and 2601 by prohibiting inmates assigned to the Administrative Segregation Unit of the 13 specified institutions from owning personal property in the form of entertainment appliances.

In addition to these sections of the Penal Code, regulations adopted by CDCR also deal with inmates’ personal property. California Code of Regulations, title 15, section 3190 was amended in 2008 to incorporate by reference the Authorized Personal Property Schedule (APPS) into the regulation. The APPS contains a standardized list of allowable personal property items based upon privilege group, assigned security level, and institution mission.⁶

⁵ Civil Code section 2225 discusses the ability of a convicted felon to financially benefit from the sale of the story of his or her crime.

⁶ For example, the APPS would allow an inmate assigned to Administrative Segregation Unit housing at Deuel Vocational Institution is to have one audio entertainment appliance, AM/FM radio only, or one television set, AC power only, no batteries, portable models only. The APPS prohibits an inmate at the Reception Center at Deuel Vocational Institution from having any audio entertainment appliance.

The APPS also allows an inmate assigned to security Level I, II or III housing at California State Prison, Solano to possess one AM/FM radio/CD/cassette tap player or any combination, or one television set, AC power only, no batteries, portable models only. The APPS also allows Inmates assigned to General Population at California State Prison, Solano to have one audio entertainment appliance if they are assigned to Privilege Groups A or B. Those assigned to Privilege Group C may not have an audio entertainment appliance.

California Code of Regulations, title 15, section 3190(b), includes a process for obtaining local exceptions to the APPS:

(b) . . . A list of allowable property shall be developed and updated by each mission-based region no more frequently than twice yearly. Local exceptions to the individual mission-based property lists shall also be identified. All changes to the Authorized Personal Property Schedule shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code Sections 11340 through 11364).

The most recent version of the APPS, dated February 2008, includes no exemptions for entertainment appliances at any Administrative Segregation Unit at any institution.

The Memorandum, therefore, interprets, implements and makes specific Penal Code sections 5058, 2600 and 2601 because it lists the personal property an inmate may possess. The Memorandum also attempts to amend CDCR's own regulation by imposing exceptions to the APPS as incorporated by California Code of Regulation, title 15, section 3190, without following the procedures it adopted for making exceptions in that section. By its own terms, section 3190 recognizes that those exceptions must be adopted pursuant to the requirements of the APA.

The second element of *Tidewater* is met.

The Memorandum, therefore, meets the definition of "regulation" in Government Code section 11342.600.

The final issue to examine is whether the challenged rule falls within an express statutory exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. Pursuant to section 11346, the procedural requirements established in the APA "shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly*." (Emphasis added.)

The agency has not identified an express statutory exemption from the APA that would apply to the Memorandum, nor did OAL find such an exemption.

AGENCY RESPONSE

CDCR did not submit a response to the petition.

CONCLUSION

In accordance with the above analysis, OAL determines that the Memorandum titled "Exemption for En-

tertainment Appliances in Administrative Segregation Units" signed by Marisela Montes, Deputy Director of the Division of Adult Institutions of the California Department of Corrections and Rehabilitation, dated December 15, 2008, meets the definition of "regulation" that should have been adopted pursuant to the APA.

Date: September 18, 2009 /s/
SUSAN LAPSLEY
Director

/s/
Kathleen Eddy
Senior Counsel

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-0804-01
AIR RESOURCES BOARD
Outboard Marine Tanks and Components

This rulemaking action establishes manufacturing standards for marine outboard motor remote gas tanks, gas caps, supply hoses, and riming bulbs so as to reduce gasoline vapor emissions from these devices. The rulemaking sets the maximum allowable loss at a level consistent with already-regulated smaller fuel containers. It exempts previously manufactured tanks and components and those not slated for sale in California. It allows for the sale of innovative products that comply with these emission standards but which cannot go through the prescribed testing procedures. It requires certain labeling of certified products. It includes a variance provision to excuse manufacturers who, due to circumstances beyond their control, would suffer extraordinary financial hardship from compliance if they meet their burden of proof and submit a plan for coming into compliance. It incorporates a certification procedure document and two testing procedure documents for the various standards for tanks and related components. It includes an enforcement provision for violations.

Title 13

California Code of Regulations

ADOPT: 2468, 2468.1, 2486.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9, 2468.10

Filed 09/16/2009

Effective 10/16/2009

Agency Contact: Trini Balcazar (916) 445-9564

File# 2009-0827-04

BOARD OF PODIATRIC MEDICINE

Fingerprint Requirements

This rulemaking is being undertaken to establish the mandatory submission of fingerprints to the Department of Justice for a state and federal level criminal offender record information search. These newly adopted regulations would require all licensees that do not currently have their fingerprints on electronic record with the DOJ to provide fingerprints. These regulations would exempt disabled licensees, inactive and retired licensees and active military personnel if they are stationed outside the US. Further the regulations would require licensees to disclose criminal convictions (except traffic infractions) and disciplinary actions taken against his or her license. Finally the regulations would specify that no license may be issued or renewed unless fingerprints have been submitted and the licensee has reported any criminal convictions or disciplinary actions.

Title 16

California Code of Regulations

ADOPT: 1399.720, 1399.721, 1399.722, 1399.723, 1399.724, 1399.725

Filed 09/16/2009

Effective 10/16/2009

Agency Contact:

Mischa Matsunami (916) 263-0315

File# 2009-0818-03

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

Public Infrastructure Advisory Commission (PIAC)

This filing is a certificate of compliance for an emergency regulatory action which established the procedures for the Public Infrastructure Advisory Commission (PIAC).

Title 21

California Code of Regulations

ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711

Filed 09/16/2009

Agency Contact: Jim Bourgart (916) 323-5412

File# 2009-0806-03

CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

Grants Administration Policy for Academic and Non-Profit Institutions

This is a resubmission of a withdrawn Certification of Compliance (2009-0127-03 S). It also addresses the partial disapproval in OAL file no. 07-0112-01 S concerning the attempted incorporation by reference of a Trainee Termination Form.

The California Institute for Regenerative Medicine ("Institute" or "CIRM") was established in early 2005 with the passage of Proposition 71 (The California Stem Cell Research and Cures Initiative). The state-wide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004. It established a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

This regulatory action amends the standards and criteria for the awarding and oversight of grants, loans and contracts for academic and non-profit grantees via the Grants Administration Policy for Academic & Non-Profit Institutions (The GAP), which is incorporated by reference into section 100500 of Title 17.

OAL approves this submission except as to the amendments of the Appeals of Scientific Reviews section.

Title 17

California Code of Regulations

AMEND: 100500

Filed 09/18/2009

Effective 10/18/2009

Agency Contact: Ian Sweedler (415) 396-9122

File# 2009-0811-02

DEPARTMENT OF CORPORATIONS

Clean-up Amendments to the Regulations

This rulemaking makes technical and corrective changes to update regulations in Title 10 of the California Code of Regulations which became necessary as a result of changes made to various California Codes by Assembly Bill 1894, Chapter 201, Statutes of 2000, Assembly Bill 1757, Chapter 229, Statutes of 2003, and Assembly Bill 886, Chapter 399, Statutes of 2007.

Title 10

California Code of Regulations

AMEND: 260.102.8(b), 260.103.6, 260.105.15, 260.113, 260.140.8(b)(4), 260.140.42(e), 260.140.71.2, 260.140.114.1(c), 260.151(a), 260.236(c)(3)(C), 260.608, 1457(d), 1950.122.1,

2020(c), 2030, Note after Subchapter 6 REPEAL:
250.50, 250.51
Filed 09/23/2009
Effective 10/23/2009
Agency Contact: Karen Fong (916) 322-3553

File# 2009-0817-02
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT
Employee Housing Permit to Operate, per Employee
and per Lot Fees

This change without regulatory effect concerns employee housing and reflects the increase in the fees for a permit to operate a labor camp as follows: (1) the fee for issuing a permit to operate a labor camp (issuance fee) is increased from \$35 to \$200, (2) the fee for each employee the operator intends to house where such housing is supplied by the operator is increased from \$12 to \$27, and (3) the fee for each lot or site provided for parking of mobile homes or recreational vehicles by employees is increased from \$12 to \$27. This increase in fees reflects the statutory changes made pursuant to ABX4 12 (Assembly Bill, 4th Extraordinary Session, Statutes 2009, chapter 12) that went into effect as an urgency statute on July 28, 2009.

Title 25
California Code of Regulations
AMEND: 637
Filed 09/17/2009
Agency Contact: Ruth Ibarra (916) 327-2796

File# 2009-0817-03
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT
Mobilehome Parks Permit to Operate and Per Lot Fees

This change without regulatory effect concerns mobilehome parks and increases the annual permit operating fee from \$25 to \$140, and the per lot fee from \$2 to \$7. This increase in fees reflects the statutory changes made pursuant to ABX4 12 (Assembly Bill, 4th Extraordinary Session, Statutes 2009, chapter 12) that went into effect as an urgency statute on July 28, 2009.

Title 25
California Code of Regulations
AMEND: 1008
Filed 09/17/2009
Agency Contact: Ruth Ibarra (916) 327-2796

File# 2009-0909-01
DEPARTMENT OF PESTICIDE REGULATION
Dealers Records and Sales Reporting

This change without regulatory effect restores wording that was overlooked during publication of a 1992

rulemaking which amended title 3, section 6562 (OAL File No. 1992-0224-01S). This error was later reflected in subsequent regulatory actions amending section 6562, including OAL File No. 1995-0725-02S.

Title 3
California Code of Regulations
AMEND: 6562
Filed 09/22/2009
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

File# 2009-0819-01
DEPARTMENT OF PUBLIC HEALTH
Update List of Reportable Diseases

The California Department of Public Health is amending sections 2500, 2502 and 2505 of title 17, California Code of Regulations. These amendments are exempt from review by the Office of Administrative Law pursuant to Health and Safety Code Section 120130.

Title 17
California Code of Regulations
AMEND: 2500, 2502, 2505
Filed 09/22/2009
Effective 09/22/2009
Agency Contact: Dawn Basciano (916) 440-7367

File# 2009-0812-01
DEPARTMENT OF REHABILITATION
Business Enterprises Program for the Blind

This filing is a resubmittal of a regulatory action which amends existing regulations concerning Business Enterprises for the Blind licensing, establishment and operation of vending facilities, collection of vending machine income, the State Committee of Blind Vendors, and administrative review and full evidentiary hearing procedures, and adopts new regulations on interim vending facilities.

Title 9
California Code of Regulations
ADOPT: 7213.4, 7213.5, 7213.6, 7214.1, 7214.2, 7214.3, 7214.4, 7214.6, 7214.8, 7215.1, 7216.1, 7216.2, 7220.3, 7220.5, 7220.7 AMEND: 7213, 7213.1, 7213.2, 7213.3, 7214, 7215, 7216, 7218, 7220, 7221, 7224, 7225, 7226, 7226.1, 7226.2, 7227, 7227.1, 7227.2 REPEAL: 7219
Filed 09/22/2009
Effective 10/22/2009
Agency Contact: Lisa Neigel (916) 558-5830

File# 2009-0811-01
DEPARTMENT OF SOCIAL SERVICES
Asset Exclusion Changes and EITC Outreach in CalWORKs

This filing adds provisions to the Manual of Policies and Procedures that describe a county's duty to ask Cal-

WORKS recipients about eligibility for the earned income tax credit and to provide information concerning the credit, and updates existing limitations on exempt restricted accounts that applicants and recipients may use to accumulate funds for purposes specified in Welfare and Institutions Code section 11155.2, subdivision (a).

Title MPP
California Code of Regulations
AMEND: 40-107, 42-213, 89-130
Filed 09/22/2009
Effective 10/22/2009
Agency Contact: Sue Tognet (916) 657-2586

File# 2009-0806-01
DEPARTMENT OF VETERANS AFFAIRS
Definition of Moneys and Other Personal Property

Department of Veterans Affairs proposed this rule-making action to define "moneys and other personal property" in Military and Veterans Code sections 1035 and 1035.05 by adopting section 508 to title 12 of the California Code of Regulations.

Title 12
California Code of Regulations
ADOPT: 508
Filed 09/17/2009
Effective 10/17/2009
Agency Contact: John Ruocco (916) 653-1394

File# 2009-0915-02
FAIR POLITICAL PRACTICES COMMISSION
Lobbyist Certification & Ethics Orientation Course

This action by the Fair Political Practices Commission adopts title 2, section 18603 and 18603.1. New section 18603 delineates that a lobbyist must file a lobbyist certification during every new session of the Legislature. Section 18603.1 is being adopted to detail the requirement for lobbyists to take an ethics orientation course and when the course must be completed.

Title 2
California Code of Regulations
ADOPT: 18603, 18603.1
Filed 09/22/2009
Effective 10/22/2009
Agency Contact:
Virginia Latteri-Lopez (916) 324-3854

File# 2009-0915-01
FAIR POLITICAL PRACTICES COMMISSION
Campaign Related Mailings and Sent at Public Expenses

This action by the Fair Political Practices Commission amends section 18420.1 and adopts section

18901.1 in Title 2 of the California Code of Regulations. The adoption of section 18901.1 explains when a mailing sent at public expense is prohibited and when it is allowable. The amendment to section 18420.1 details when a payment made by a state or local agency is considered an independent expenditure or a contribution. The amendment also explains when such a payment is not considered a contribution or an independent expenditure.

Title 2
California Code of Regulations
ADOPT: 18901.1 AMEND: 18420.1
Filed 09/22/2009
Effective 10/22/2009
Agency Contact:
Virginia Latteri-Lopez (916) 324-3854

File# 2009-0824-05
MANAGED RISK MEDICAL INSURANCE BOARD
Community Provider Plan Designation Process

This filing is a certificate of compliance for an emergency regulatory action which revised the process for the designation of the community provider plan in each county for the Healthy Families Program.

Title 10
California Code of Regulations
AMEND: 2699.6805
Filed 09/17/2009
Agency Contact: Dianne Knox (916) 324-0592

File# 2009-0826-01
STATE ALLOCATION BOARD
Leroy F. Greene School Facilities Act of 1998; Gen. Site Development

This regulatory action revises the date of suspension for new construction additional grants for specific types and amounts of site development costs to be January 1, 2010.

Title 2
California Code of Regulations
AMEND: 1859.76
Filed 09/18/2009
Effective 09/18/2009
Agency Contact: Robert Young (916) 445-0083

File# 2009-0819-03
STATE LANDS COMMISSION
Marine Invasive Species Control Fund Fee

This regulatory action revises section 2271 of title 2 of the California Code of Regulations in subsection (a) to raise the Marine Invasive Species Control Fund fee required under Public Resources Code Section 71215 from \$625 per vessel voyage to \$850 per vessel voyage

and deletes in subsection (b) the annual qualifying voyage fee adjustment formula.

Title 2
California Code of Regulations
AMEND: 2270, 2271
Filed 09/17/2009
Effective 11/01/2009
Agency Contact: Maurya Falkner (916) 574-2568

File# 2009-0806-04
STATE WATER RESOURCES CONTROL BOARD
Orphan Site Cleanup Fund

This regulatory action repeals regulations relating to the statute that established the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Account (OSCA) that was repealed January 1, 2008. On January 1, 2009, the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund (Orphan Site Cleanup Fund) was established. The regulations proposed for adoption implement the Orphan Site Cleanup Fund that provides funds for cleaning up brownfields. Brownfields are abandoned or underused commercial or industrial properties, where the expansion or redevelopment is hindered by contamination. The proposed regulations define eligible sites, eligible applicants, and eligible costs and establish eligibility requirements, a priority system for paying eligible applicants, and funding limitations. The regulations also define the types of costs that qualify for funding.

Title 23
California Code of Regulations
ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 REPEAL: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37
Filed 09/16/2009
Effective 10/16/2009
Agency Contact: Judy Reid (916) 341-5760

File# 2009-0805-03
STRUCTURAL PEST CONTROL BOARD
Armed Services Exemption/Structural Integrated Pest

The Structural Pest Control Board (Board) proposed to adopt section 1950.1 and amend section 1984 of Title 16 of the California Code of Regulations. The Board's adoption of section 1950.1 adds an exemption for licensed individuals who fail to renew their license due to their participation in the United States armed services.

The Board is amending section 1984 to amend the definition of Integrated Pest Management.

Title 16
California Code of Regulations
ADOPT: 1950.1 AMEND: 1984
Filed 09/16/2009
Effective 10/16/2009
Agency Contact: Susan Saylor (916) 263-2540

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN April 22, 2009 TO
September 23, 2009**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2
09/22/09 ADOPT: 18603, 18603.1
09/22/09 ADOPT: 18901.1 AMEND: 18420.1
09/18/09 AMEND: 1859.76
09/17/09 AMEND: 2270, 2271
09/14/09 AMEND: 588.1, 588.2
08/31/09 ADOPT: 1859.324.2 AMEND: 1859.302, 1859.324.1, 1859.330
08/03/09 ADOPT: 647.5, 647.25, 647.36, 647.37.1 AMEND: 647.1, 647.2, 647.3, 647.4, 647.20, 647.20.1, 647.22, 647.23, 647.24, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.38 REPEAL: 647.25, 647.34
07/30/09 ADOPT: 1899.570, 1899.575, 1899.580, 1899.585
07/20/09 ADOPT: 721
07/07/09 AMEND: 18450.4
07/06/09 AMEND: 18940.2
06/15/09 ADOPT: 18746.4 AMEND: 18741.1, 18746.1, 18746.3
06/12/09 ADOPT: 649.14, 649.17, 649.18, 649.23, 649.25, 649.29, 649.32, 649.33, 649.48 AMEND: 647.4, 649, 649.2, 649.4, 649.7, 649.8, 649.11, 649.12, 649.13, 649.15, 649.16, 649.22, 649.24, 649.26, 649.27, 649.28, 649.30, 649.31, 649.35, 649.36, 649.50, 649.51, 649.57, 649.58, 649.59, 649.62 REPEAL: 649.3, 649.6, 649.9, 649.10, 649.14, 649.23, 649.25
06/09/09 ADOPT: 18405
06/01/09 ADOPT: 250.1

05/21/09	AMEND: 18705.1	Title 4	
05/14/09	ADOPT: 21000, 21001, 21002, 21003, 21004, 21005, 21006, 21007, 21008, 21009	08/25/09	ADOPT: 12380, 12381, 12384, 12385, 12386 AMEND: 12360
05/08/09	ADOPT: 18410 AMEND: 18402	08/04/09	AMEND: 1853
04/30/09	AMEND: 1859.129, 1859.197	07/31/09	AMEND: 10020
04/28/09	AMEND: div. 8, ch. 111, section 59560	07/31/09	ADOPT: 7051, 7052, 7053, 7054, 7055, 7056, 7057, 7058, 7059, 7060, 7061, 7062, 7063, 7064, 7065, 7066, 7067, 7068, 7069, 7070, 7071
Title 3		07/21/09	AMEND: 1979, 1979.1
09/22/09	AMEND: 6562	07/21/09	REPEAL: 1950.1
09/15/09	AMEND: 3434(b)	06/25/09	ADOPT: 12486
09/14/09	AMEND: 3435(b)	06/22/09	ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078
09/10/09	ADOPT: 2300.1, 2300.2, 2300.3 AMEND: 2300	06/04/09	AMEND: 106
09/09/09	AMEND: 3434(b)	05/18/09	ADOPT: 12488, 12508, 12510, 12511, 12514 AMEND: 12480, 12486
09/03/09	AMEND: 3434(b)	05/18/09	ADOPT: 12482
09/01/09	AMEND: 3435(b)	05/12/09	AMEND: 406
08/28/09	AMEND: 3434(b)	05/12/09	ADOPT: 12591
08/27/09	AMEND: 3435(b)	04/24/09	ADOPT: 12480, 12492, 12494, 12496, 12498, 12499, 12501, 12502, 12504 AMEND: 12482
08/27/09	AMEND: 3588	04/24/09	AMEND: 12482
08/26/09	AMEND: 6400, 6502, 6620, 6626(a)-(b), 6626(c), 6627, 6670, 6672, 6736, and incorporated by reference forms	Title 5	
08/20/09	AMEND: 3406(b)	08/20/09	ADOPT: 19825.1 AMEND: 19816, 19816.1, 19825, 19825.1 (renumber to 19825.2)
08/20/09	AMEND: 3591.13(a)	07/21/09	ADOPT: 43200
08/13/09	AMEND: 3434(b)	07/21/09	ADOPT: 43220
08/13/09	AMEND: 6618, 6619, 6761.1, 6770, 6771	07/21/09	AMEND: 42920
08/12/09	ADOPT: 902.15	07/21/09	ADOPT: 40411
08/07/09	AMEND: 3406(b)	07/09/09	AMEND: 18100
08/05/09	AMEND: 3434(b), 3434(c)	07/03/09	ADOPT: 80027.1, 80048.7 AMEND: 80027
08/04/09	AMEND: 3423(b)	06/29/09	ADOPT: 19821.5, 19825.1, 19828.4, 19837.3, 19839, 19845.2 AMEND: 19815, 19816, 19816.1, 19828.3, 19837.2, 19845.1, 19846
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07/02/09	AMEND: 3423(b)	07/31/09	AMEND: 1637, 1646
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